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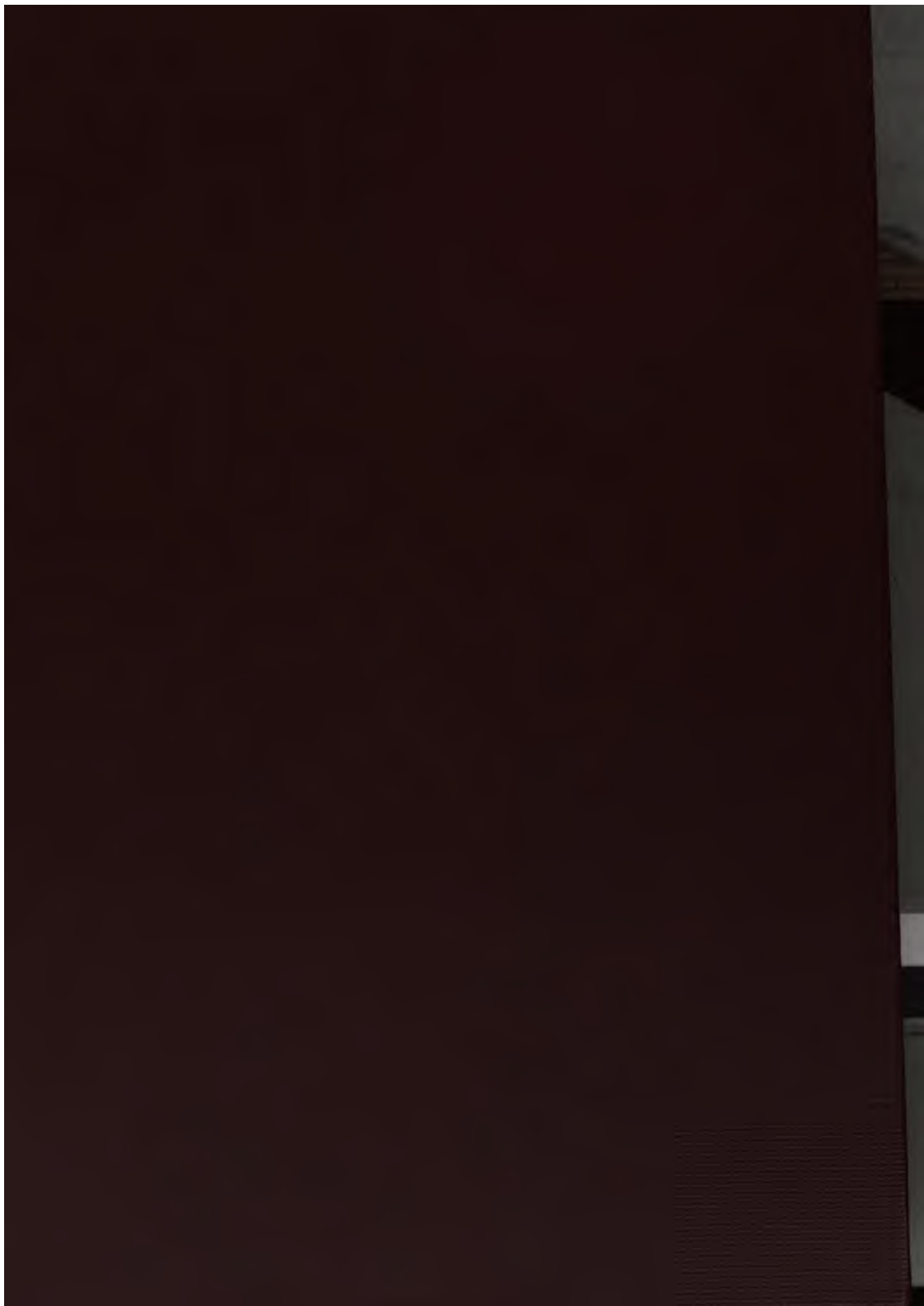
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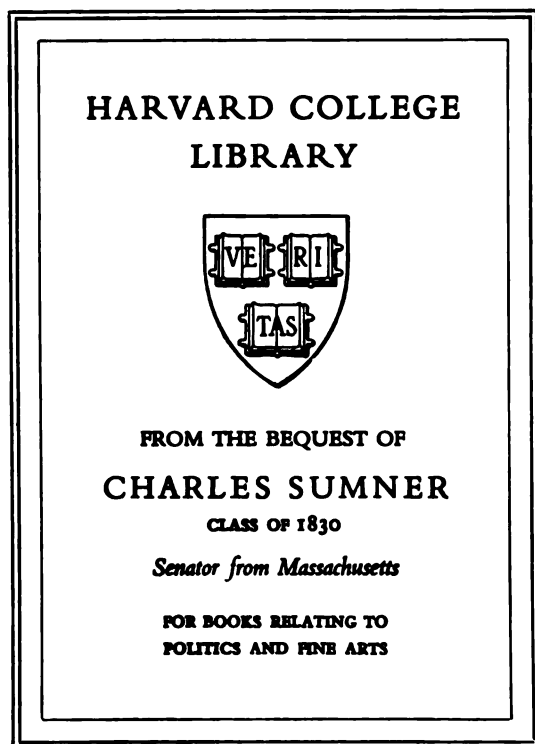
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THE
"Statutes at Large"
OF
PENNSYLVANIA,
FROM
1682 to 1801

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19 1887 BY
JAMES T MITCHELL AND HENRY FLANDERS
COMMISSIONERS

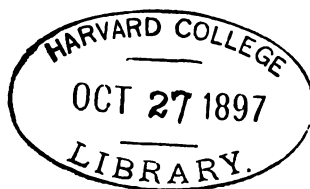
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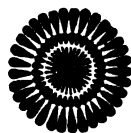
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(a. J. S.)



PREFATORY NOTE.

The appendices herein are derived from the same sources as those in the preceding volumes, except in a few instances. The notes and index have been prepared under the supervision of the Commission by Charles R. Hildeburn, with the assistance of Ardemas Stewart, Esquire.



THE STATUTES AT LARGE OF PENNSYLVANIA.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1724, and continued by adjournments until the twenty-first day of August, 1725, the following acts were passed:

CHAPTER CCLXXXII.

AN ACT TO PREVENT THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE.

Whereas by the laws of this province lately made and provided for preventing the exportation of flour not merchantable, the credit of the trade of this province in one of its most considerable branches hath in some good measure been retrieved. But forasmuch as those laws continue in force no longer than three years from the publication thereof:

Therefore, to the end that the said credit of our trade and the benefits thence arising may be continued and improved:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That every bolter of flour and baker of bread residing or (at any time

hereafter during the continuance of this present act) to reside within this province shall each one for himself provide and have a distinguishable brand-mark; and shall therewith brand each and every cask of flour or biscuit of his own bolting or baking before the same shall be removed from the place where the same was so as aforesaid bolted or baked. But before any such bolter or baker shall bolt any flour or bake any bread for exportation out of this province, every such bolter and baker shall cause such his brand-mark, together with his name and place of abode, to be entered with the clerk of the court of quarter-sessions for the county where he doth reside (if not already entered), and so from time to time as often as any such bolter or baker shall move the place of his residence from one county of this province into another he shall there cause his mark, name and place of residence to be entered with the clerk of the respective county, for recording whereof the said clerk shall have and receive one shilling each and no more; and every bolter and baker offending in all or any of the premises on due proof thereof made shall forfeit and pay the sum of five shillings for every such offense.

[Section II.] And be it enacted by the authority aforesaid, That all wheat flour bolted and packed for exportation from and after the thirteenth day of May next ensuing the publication of this act shall by the bolter thereof be and be made merchantable and of due fineness, without any mixture of coarser or other flour, and honestly and well packed in well-seasoned cask with the tare thereof thereupon marked, the cask being first weighed by weights tried by or made according to the standard of weights in this province, wherewith the flour and bread packed shall be also weighed. And if any bolter shall offend therein he shall forfeit and pay for every such offense the sum of one shilling per cask.

[Section III.] And be it enacted by the authority aforesaid, That if any person or persons shall be convicted of any other willful fraud or cheat in packing of flour or bread, or of willfully making a fraudulent invoice of the net proceeds or weight of any flour or bread, the person offending therein shall forfeit and pay the sum of five pounds for every such offense.

[Section IV.] And be it enacted by the authority aforesaid, That no merchant or person whatsoever shall lade or ship any flour for exportation out of this province before he shall first submit the same to the view and examination of the officer appointed by or by the direction of this act, who shall search and try the same in order to judge of its goodness; and if the said officer shall judge the same to be merchantable, according to the direction of this present act, he shall brand every such cask of flour on the quarter with the provincial brand-mark, which the said officer shall provide and have for that end and purpose, sufficient and capable to impress in a fair and distinguishable manner the arms of the province of Pennsylvania with the letter P on each side, for which trouble of the said officer he shall have and receive of the shipper one penny per cask and no more.

Provided always nevertheless, That if any dispute shall happen to arise between the said officer and possessor of such flour concerning the fineness or goodness thereof, application being [sic] made to one of the magistrates of the city or county where the said dispute arises, who shall issue his warrant to two indifferent, judicious persons of skill and integrity to view and search the said flour and make report forthwith according as they find the same, and the said magistrate is hereby empowered and required to give judgment accordingly. And in case the said flour is judged not fit to be exported, the said magistrate shall order it not to be exported under the penalty of forfeiture of all such flour, and shall also award and order the owner or possessor of the said flour to pay the said officer one shilling per cask for all such flour as shall be adjudged not fit for exportation as aforesaid with reasonable charges, who shall recover the said costs and charges from the bolter and maker thereof. But in case the said flour upon trial shall be found to be good and merchantable according to the directions of this act, the charges of prosecution shall be paid by the said officer. And in case any flour shall upon trial be found not merchantable or fit to be exported, the officer shall take the bolter's brand and the marks and numbers of such casks of flour; and if the same flour be

afterwards shipped in order for exportation, the proof that it is not the said flour shall lie wholly on the owner or shipper thereof and shall not be incumbent on the said officer.

[Section V.] And be it enacted by the authority aforesaid, That the said officer [or his deputies] shall have full power and authority by virtue of this act and without any further or other warrant to enter on board any ship, sloop or vessel whatsoever lying or being in any port or place of this province, and into any house, store or place whatsoever within the province aforesaid, to search for and make discovery of any flour shipped or intended to be shipped for exportation; and if the owner or possessor thereof or their servants or others shall deny him or them entrance, or if the said officer or his deputies shall be anyways molested in making such discovery as aforesaid, or if such merchant or owner shall refuse to permit the said officer or his deputies to view and examine any flour or not permit him or them to brand the same if merchantable, according to the directions of this act, every such person so offending shall forfeit and pay the sum of ten pounds; or shall ship off any cask or casks of flour not branded with the provincial brand-mark aforesaid, every such person so offending shall forfeit and pay the sum of five shillings for every cask of flour so shipped.

[Section VI.] And be it enacted by the authority aforesaid, That for the better encouragement of the said officer for putting this act in execution he shall have and receive a salary of thirty pounds per annum, to be paid out of the provincial treasury by order on the treasurer under the hand of the Speaker of the assembly for the time being.

[Section VII.] And be it enacted by the authority aforesaid, That Samuel Carpenter, son of Samuel Carpenter, late of Philadelphia, deceased, appointed by the said-recited act for putting the same in execution, shall be and is hereby appointed the said officer for viewing and examining all flour intended for exportation according to the direction of this present act. And if the said Samuel Carpenter or other person hereafter appointed to be the officer aforesaid shall by any accident be rendered incapable or neglect to execute the said office, or shall happen to die before or after the time of putting this present

act in execution, then and so often and from time to time it shall and may be lawful to and for a majority of the justices of the peace of the county of Philadelphia to supply his place by some other fit and capable person, who shall thereupon be the officer aforesaid for putting this act in execution until the assembly appoint another. But before the said Samuel Carpenter or any other person so to be appointed the officer aforesaid shall do anything in the execution of his office, he shall first make oath or affirmation before any justice of the peace of any county of this province faithfully and impartially to perform his duty and trust to the best of his capacity, according to the direction of this present act.

[Section VIII.] And be it enacted by the authority aforesaid, That the said Samuel Carpenter or any other person appointed the officer aforesaid is hereby empowered to appoint deputies in the respective counties of this province (for whom he or they shall be accountable), which said deputies are hereby [fully] empowered to act as deputy officers for the searching and branding of flour in their respective counties to all intents and purposes as [fully as] the said Samuel Carpenter could do by virtue of this act.

[Section IX.] And be it enacted by the authority aforesaid, That no owner, possessor or occupier of any grist-mill in this province shall by himself, servant or others presume to grind or suffer to be ground into meal for bolting for exportation out of this province any unsound, ill-dressed or unmerchantable wheat; and whatsoever owner, possessor or occupier of any such mill as aforesaid shall so grind or suffer to be ground any such unsound, ill-dressed or unmerchantable wheat, to be bolted for exportation out of this province contrary to the true intent and meaning of this act, he, she or they so offending in the premises shall forfeit and pay for every such offense the sum of thirty-five shillings on due proof thereof by one or more credible witnesses before any one justice of the peace in this province.

[Section X.] And be it enacted by the authority aforesaid, That if any person or persons shall counterfeit the said provin-

cial brand-mark or impress or brand the same on any cask of flour, he, she or they being thereof legally convicted shall, for the first offense, forfeit and pay the sum of five pounds; for the second offense, the sum of ten pounds, and for the third and every other such offense the offender shall be committed to gaol, and sentenced to the pillory, there to stand the space of two hours on a market-day in any city, borough or town of the respective counties of this province where the fact was committed.

[Section XI.] And be it enacted by the authority aforesaid, That all and singular the fines, forfeitures and charges mentioned in this act, where the same respectively exceed not forty shillings, the same shall be recovered in the same manner as other debts under forty shillings by the laws of this province; and where the same shall exceed forty shillings, they may be sued for and shall be recovered in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed. All which said forfeitures not hereinbefore directed how to be applied shall be paid to the prosecutor, one-half thereof for the use of the poor, which he is hereby strictly required immediately on receipt thereof to pay to the overseers of the poor of the place where the forfeiture shall happen, and the other half for the said prosecutor, which he may detain to his own use as prosecutor, any law, usage or custom to the contrary in anywise notwithstanding.

Passed March 20, 1724-25. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed November 27, 1700, Chapter 51. Repealed by the Act of Assembly passed January 19, 1733-34, Chapter 332.

CHAPTER CCLXXXIII.

AN ACT TO ENABLE JEREMIAH LANGHORNE, WILLIAM BILES, JOSEPH KIRKBRIDE, JUNIOR, THOMAS WATSON, PRACTITIONER IN PHYSIC, AND ABRAHAM CHAPMAN TO BUILD A NEW COURT-HOUSE AND PRISON IN THE COUNTY OF BUCKS.

Whereas it hath been represented to this house that the courts of general quarter-sessions of the peace and common pleas for the county of Bucks have of late been held at the borough of Bristol in the said county, and that a great number of the inhabitants are settled many miles back from that place, which makes their attendance at courts very inconvenient and burdensome to the people living so remote, and that the township of Newtown is near the center of the inhabited part of the said county, and if a court-house and prison were erected in the said township, it would be very commodious and much for the ease of the inhabitants of the said county in general:

May it therefore please the governor that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful to and for the said Jeremiah Langhorne, William Biles, Joseph Kirkbride [Jun.], Thomas Watson and Abraham Chapman or any three of them to purchase and take assurance to them and their heirs of a piece of land situate in some convenient place in the said township of Newtown, in trust and for the use of the said county, and thereon to erect and build, or cause to be erected and built, a court-house and prison sufficient to accommodate the public service of the said county and for the ease and conveniency of the inhabitants.

[Section II.] And be it enacted by the authority aforesaid, That for the defraying the charge of purchasing the land, building and erecting the court-house and prison aforesaid, it shall and may be lawful to and for the commissioners and assessors

of the said county or a majority of them, who are hereby required to assess and levy so much money as the said trustees or any three of them shall judge necessary for purchasing the land and finishing the said court-house and prison: Provided always, the sum of money so raised do not exceed three hundred pounds current money of this province.

[Section III.] And be it further enacted by the authority aforesaid, That when the said court-house shall be erected as aforesaid, that from thenceforth the several courts of general quarter-sessions of the peace and gaol-delivery and the courts of common pleas for the said county shall be holden and kept at the said court-house when the same is built and erected in the township of Newtown as aforesaid; and the election of representatives to serve in general assembly, assessors and all other officers of the said county who are or shall be appointed to be annually elected or otherwise shall be made and elected at the said court-house, any law, custom or usage to the contrary in anywise notwithstanding.

Passed March 20, 1724-25. Apparently never submitted to the Crown for consideration. See the Acts of Assembly passed March 7, 1745-46, Chapter 366; March 21, 1772, Chapter 650; June 14, 1777, Chapter 757; April 1, 1778, Chapter 798; August 19, 1778, Chapter 801; February 28, 1780, Chapter 878; September 13, 1785, Chapter 1175; April 13, 1791, Chapter 1575; April 8, 1794, Chapter 1732; February 28, 1810, P. L. 47; January 28, 1813, P. L. 54; April 14, 1834, P. L. 333; April 15, 1834, P. L. 537; April 24, 1879, P. L. 32; June 1, 1883, P. L. 58; April 26, 1889, P. L. 55.

CHAPTER CCLXXXIV.

AN ACT FOR RAISING OF COUNTY RATES AND LEVIES.

Whereas by the help and directions of a law of this province passed in the fourth year of his present Majesty's reign, entitled "An act for the more effectual raising of county rates and levies,"¹ the method of those assessments are brought to a com-

¹ Passed February 22, 1717-18, Chapter 231.

petent certainty and regulation; but inasmuch as by a supplementary act passed in the eighth year of this reign the number of commissioners appointed by the first act was reduced and the manner of their choice and succession settled, it is now thought convenient that both those acts should be reduced to one, omitting some clauses which at present may not be of absolute necessity to insert.

[Section I.] Be it therefore enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the same Province in General Assembly met, and by the authority of the same, That the present commissioners for putting the said acts in execution, together with the assessors of the respective counties of Philadelphia, Chester and Bucks, now in being, shall continue in their several places and execute the powers and authorities given and required of them by the same acts for and during all the time they were respectively appointed to serve, according to the direction of those acts.

And in regard it is intended that three commissioners shall be continued to execute this act in every county of this province, and that the eldest or first-chosen of them shall be successively changed by yearly elections in each county:

[Section II.] It is therefore enacted by the authority aforesaid, That the freeholders and inhabitants of the said respective counties who are by the laws of this province qualified to elect and be elected members of assembly shall yearly and every year in a peaceable and quiet manner meet at the time and place appointed for such elections or the day following, unless it happen to be that called Sunday, and then on the day next after; whereupon they shall choose not only the said commissioners, but also persons to serve in assembly and to be sheriffs, coroners and assessors of the said respective counties in manner following: (That is to say) all persons who by virtue of the said laws have a right to vote in such elections shall deliver in writing to the judges of those elections respectively in one piece of paper the names of eight persons for whom they vote to serve in assembly, in one other paper the names of two persons for sheriffs and two for coroners; and in another piece of

paper the names of one person to be commissioner and six to be assessors for each of the said counties. And when the said commissioners and assessors are so chosen the sheriff of the respective counties shall take their names in writing, under the hands and seals of at least six more of the said freeholders, and certify the same to the justices at their general sessions of the peace in each county next after such election, which return shall be entered on record by the justices' clerk in their sessions minute-book. And that the returns of all the said other elections shall be made as usual, according to the manner and form prescribed by the said laws of this province relating thereunto.

But before any of the said commissioners and assessors so chosen and returned shall take upon them the respective service and duty by this act required of them, they shall be qualified, to wit, the new-elected commissioner first and the assessors afterwards by oath or affirmation to the effect following: (That is to say)

Thou shall well and truly cause the county debts to be speedily adjusted and the rates and sums of money by virtue of this act imposed to be duly and equally assessed and levied according to the best of thy skill and knowledge; and herein thou shalt spare no person for favor or affection nor grieve any for hatred or ill-will.

Which qualification or engagement any two or more of the justices of the peace in the proper county, or city of Philadelphia, where such assessments are usually made, shall have power and are hereby required, under the penalty of five pounds apiece, to administer when required. And the said qualifications shall be put in writing and signed by those that take them, and certified by the justices, and filed by the clerk of the session along with the said sheriff's return of the persons so qualified.

Provided always, That when the inhabitants of any of the said counties refuse or neglect to choose commissioners and assessors according to the direction of this act, then and in every such case the commissioners and assessors who officiated the year next preceding such neglect shall continue to officiate in their respective stations until another election be made, according to the direction of this act.

[Section III.] And be it further enacted by the authority aforesaid, That the said commissioners and assessors or a majority of them as soon as conveniently they can after they are qualified as aforesaid, shall annually meet at the place where the quarter-sessions and other courts are usually held, and then and there or at such other times and places as the said commissioners or any two of them may then after appoint, shall calculate the public debts and charges of the said respective counties, allowing all just debts and demands which now are and hereafter shall be chargeable upon the said respective counties and city of Philadelphia; and shall from time to time adjust and settle the sum and sums of money which ought of necessity to be raised yearly to pay for representatives' service in general assemblies and to defray the charges of building and repairing of court-houses, prisons, workhouses, bridges and causeways at the ends of bridges or for destroying wolves, foxes and crows, with such other uses as may redound to the public service and benefit of the said counties respectively. And shall also ascertain and set down such competent sum and sums of money as shall be yearly applied towards every of the said services, together with such sums as may be needful to make good deficiencies in county rates assessed and not yet collected and to enforce the collection thereof as occasion may require.

[Section IV.] And be it further enacted by the authority aforesaid, That the said commissioners or any two of them in each county shall, within six days after their said annual meetings, issue forth their precepts, directed to the constables of every township, requiring them to bring to the said assessors within six weeks next after the date of such precepts fair and true certificates in writing, upon their oaths or affirmations, of the names and surnames of all and every the persons dwelling or residing within the limits of those townships or places with which they shall be charged, and the names of all freemen, inmates, hired servants and all other persons residing or sojourning in every of the said townships, together with an account of what tracts and parcels of land and tenements they respectively hold in such township; and how many and what

parts of those tracts are settled, improved or cultivated, and how much of the same land is sowed with corn; and how many bound servants and negroes, with their ages, and what stock of cattle, horses, mares and sheep they possess, without concealment, fear, malice, favor or affection, upon pain of forfeiture of any sum not exceeding five pounds, to be levied as by this act is appointed.

And every of the said constables shall, by an order from one or more of the said commissioners, have and receive from the treasurer of the said respective counties three pence by the pound for their care and trouble in executing and returning the said precepts in manner aforesaid.

And that the assessors for the said respective counties or any four of them shall meet at the day and place where the commissioners' precepts are made returnable, and then and there receive the constables' returns, and shall thereupon, by the oaths or affirmation of the said constables or other credible persons, or by any other lawful ways or means, inform themselves what persons and estates in their respective counties are ratable by virtue of this act, and shall forthwith [equally] and impartially assess themselves and all others ratable as aforesaid, exempting out of such assessments all unsettled tracts or parcels of land: (That is to say) such tracts of land as at the time of the said assessment making are unseated, although the same were formerly accustomed to be rated in assessments, and having due regard to such as are poor and have a charge of children; and no single man who at the time of assessment is under twenty-one years of age or hath not been out of his servitude or apprenticeship six months shall be rated by this act; but as to those single men whose estates shall not be rated at fifty pounds, they shall be assessed after the rate of three shillings a head upon a tax of one penny per pound, both for poor rates and city and county levies.

Provided always, That no assessments of county rates to be made by virtue of this act in any one year shall exceed the value of three pence in the pound and nine shillings per head.

Provided also, That the proprietary and governor's proper estate shall not be liable to be rated or assessed by virtue of this act.

[Section V.] And be it further enacted by the authority aforesaid, That whensoever any wolves are killed within the inhabited parts of this [province], and when red foxes are killed by any person or persons (except Indians) within the said inhabited parts, he or they who kill such wolves or foxes shall bring the heads of them to some justice of the peace for the county where they are killed, who is hereby empowered and required to examine the parties producing such heads [or at the discretion of the said justice to charge him or them upon oath or affirmation to declare] where those wolves or foxes whose heads they so produce were killed and by whom; and if it shall clearly appear to the satisfaction of such justice that those heads were severed from wolves or foxes so as aforesaid killed by the party producing the same, the justices before whom such examination is taken shall cause the tongues and ears of such heads to be cut off, and upon proof made as aforesaid and not before shall grant an order upon the treasurer of the county where such wolves or foxes are killed, reciting therein the substance of the proof and requiring the treasurer to pay the party after the rates hereinafter appointed for each head: (That is to say)

For every grown dog or bitch wolf, fifteen shillings.

For every wolf puppy or whelp, seven shillings and six pence.

For every old red fox, two shillings.

And for every young red fox or whelp, one shilling.

Provided nevertheless, That wolves' heads brought before a magistrate by any Indian to claim the benefit of this act shall be attended with a certificate or other proof of some person in the neighborhood where such wolf was killed, certifying under his hand that he saw such head when green.

And whosoever kills any crows, he may bring them, but not less than six at one time, to the next justice of the peace, who shall see their bills cut off, and then give the party that brings them an order upon the county treasurer to pay him three pence per head for every such crow.

[Section VI.] And be it further enacted, That all the said respective sums of money, with the names of those persons to whom payable and the particular uses to which they are appro-

priated, shall be entered in a book to be kept for that purpose by the treasurers of the respective counties, who are hereby required to provide books at their own charge wherein they shall make the said entries accordingly. And that all accounts of debts and demands justly chargeable upon the [said] respective counties shall be allowed by a majority of the commissioners and assessors of the same counties for the time being, who shall certify such allowance accordingly by endorsement on the accounts, and shall cause the names of the creditors and the sums so allowed them to be entered in a book which the said commissioners shall prepare and keep for that purpose at the charge of the said respective counties.

[Section VII.] And be it further enacted by the authority aforesaid, That the said assessors shall, at the return of the commissioners' precepts above mentioned, divide the counties wherein they act into districts, and appoint some fit person in every of those districts to be collector of the said assessments from time to time and shall cause fair duplicates of the assessment of each district to be drawn; one part thereof shall by the clerk that writes the same be delivered to one of the said commissioners of the proper county, and the other part to the collector of each district, with directions from the said commissioners to every such collector, endorsed on his duplicate or annexed thereunto, requiring him to demand of the parties the respective sums of money wherewith they are chargeable and acquaint them of the day of appeal, which shall be appointed by the said commissioners within one month after the said assessments are made; but where any of the said collectors cannot meet with the party of whom demand is to be made as aforesaid, he or they shall leave notice in writing with some of the family or at the place of the parties' last abode, signifying also the day of appeal, at which day every of the said collectors shall return their said duplicates with the names of such persons and value of such estates as shall be concealed, undervalued or omitted in the constables' return.

And if any person or persons find him or themselves aggrieved with any of the said assessments, supposing the same

to be unequal, he or they may appeal to the commissioners of the proper county.

And the said commissioners are hereby required to meet on the said day of appeal, where the assessors shall attend and lay before the commissioners all the written certificates of the names of the taxables and the account of their estates returned by the constables as this act requires, together with the particular valuations set by the assessors upon the persons and estates so returned. Whereupon the commissioners shall take due notice thereof and strictly examine the persons appealing upon their affirmations or otherwise concerning the cause of their appeal; and upon such examination or proof of others they are hereby empowered to diminish or add to such person's rate or assessment as to them shall seem just and reasonable, with power also to call before them such persons and take notice of such estates as they find are omitted in the said assessment in order to rectify it. And if the persons so omitted refuse or neglect to appear and give an account of the value of their estate they shall pay double the sum they should or ought to have been rated at by this act.

And the said commissioners upon hearing of the said appeals shall rectify and adjust the said assessments by abating or adding to the sums contained in their said respective duplicates, and cause their clerks to give the parties concerned, where omissions are supplied or additions made to their assessments, five days' notice to appear before the commissioners and make their objections thereunto. And that the said clerks shall within ten days next after the said day of appeal deliver to the treasurers of the said respective counties a true account of the sums total which every collector shall be charged with pursuant to this act.

And the said commissioners shall cause their clerks to draw fair duplicates of the assessments of the said respective districts so rectified as aforesaid, and deliver them to the collectors of those districts where they belong within twenty days after the said day of appeal, with a warrant annexed thereunto under the hand and seal of one or more of the commissioners who signed the assessments, requiring them forthwith to col-

lect and receive from the persons assessed the several sums in the said duplicates respectively mentioned, either in ready money, bills of credit or good, merchantable wheat at money price, to be delivered at such market, mill or mills in the said respective counties where the charge of the portage thereof to Philadelphia shall not exceed three pence per bushel; and that the miller's receipt for the said wheat being delivered to the respective collectors by the persons paying or delivering the same as aforesaid shall be taken by the said collectors as payment from the person by or from whom the same are delivered as aforesaid.

[Section VIII.] And be it further enacted by the authority aforesaid, That the said collectors shall once in six weeks at least render a just and true account of and bring in and pay unto the respective county treasurers all such sums of money and receipts for wheat as they shall then have received, and shall pay the whole and every of the sums of money assessed in their respective duplicates within three months next after the said days of appeal; and the treasurers shall give receipts to the collectors for what they shall so bring in and pay from time to time, which receipts shall be the collector's discharge for so much.

And that the said treasurers shall from time to time signify in writing to the said commissioners how much every collector brings in and pays as aforesaid; and when any of the said collectors are negligent or refuse to do their duty in the premises, the treasurers are hereby required forthwith to signify the same by way of complaint to the commissioners where such neglect or refusal shall happen.

[Section IX.] And be it further enacted, That if any person or persons so rated or assessed by virtue of this act shall refuse or neglect to pay the sum or sums so assessed in ready money, bills of credit or wheat delivered in lieu thereof in manner aforesaid by the space of thirty days after demand made as aforesaid, it shall be lawful for the said collectors respectively, by virtue of a special warrant for that purpose, signed and sealed by two or more of the said commissioners, who shall forthwith grant the same, and shall thereby empower the said

collectors to call to their assistance if occasion be any constable or other person, and in case of resistance to break open in the day time any house, trunk, box, chest, closet, cupboard or other things where any such offender's goods and chattels or other effects are supposed to be, and make distress and sale thereof, rendering the overplus if any be to the owners after reasonable charges deducted.

But if no distress can be found by the collector and the party refuses or neglects to show them goods or chattels of his own forthwith to satisfy the money then due, with reasonable charges, then the collector shall take the body of every such person and bring him to the county gaol and deliver him to the sheriff or keeper of the said gaol, who shall detain him in safe custody without bail or mainprise until payment be made.

Provided always, That where effects cannot be found sufficient to answer the whole sum in arrear with charges as aforesaid, then distress shall be made for so much as the effects extend to, and the party to be imprisoned only for the residue thereof with incident charges; all which charges of distress, assistance and bringing to prison shall be adjusted and settled by any two or more of the [said] commissioners when such occasion shall happen.

[Section X.] And be it further enacted, That if, upon complaint of the treasurer to the commissioners, it shall appear that any of the said collectors refuse or neglect to pay the said sums of money or other effects which he or they shall be respectively charged to collect, or produce receipts testifying the payments or delivery thereof as aforesaid, and deliver the money or receipts for wheat in the manner and at the time by this act required, retaining such sums as is hereby allowed for collecting and paying the same, then the commissioners of the proper county or any two of them shall fine every such delinquent collector in any sum not exceeding ten pounds and appoint others to act in his or their stead.

And moreover, it shall be lawful for the said commissioners of the proper county or any two of them, and they are hereby required, to meet and issue out their warrants under their hands and seals, directed to the sheriff or coroner of the proper

county, requiring him to take the body and seize and secure the estate, real and personal, belonging to such delinquent, or which shall come into the hands or possession of his heirs, executors or administrators, wherever the same can be discovered or found in this province, and make return of his proceedings therein at such time and place as the commissioners shall appoint.

And that the said commissioners, who shall cause the said lands and estates to be seized and secured as aforesaid, shall be and are hereby empowered to appoint a time for a general meeting of the commissioners of such county, and there to cause public notice to be given where such meeting shall be appointed six days at least before such general meeting; and the commissioners then present at such meeting or the major part of them, in case the money detained by such delinquent be not then paid or satisfied, shall and are hereby empowered and required to issue forth their warrants or precepts to the sheriff or coroner of the proper county, empowering and requiring him to sell and dispose of all such estates as shall be for the cause aforesaid seized and secured or any part thereof, and to bring the money arising by such sale to the commissioners who granted such warrants, in order to satisfy and pay unto the respective county treasurers for the time being the sum or sums that shall be so unpaid or detained in the hands of the [said] collectors or other persons, their heirs, executors or administrators respectively, with damages for what shall be so unpaid, returning the overplus if any be to the owner after all necessary charges deducted.

And when any sale of lands, tenements or hereditaments shall be made by such sheriff or coroner respectively, pursuant to this act, the title and conveyance thereof shall be by deed, signed, sealed and delivered by the sheriff or coroner to such person or persons as shall purchase the same, in fee-simple or otherwise, which shall be most absolute and available in law against the said delinquents and their heirs and assigns and all claiming under them.

And that all gifts, grants and sales which shall be made by any of the said delinquent collectors or other officers respec-

tively of any of their said estates, after the time they should have paid the money or effects arising from the said assessments (unless the estate so seized be sufficient to answer what they are in arrear), are hereby declared to be fraudulent, and shall not prevent or avoid the seizures and sales hereby appointed to be made thereof as aforesaid.

[Section XI.] And be it further enacted, That all freemen not being householders nor having a certain place of abode and all the said hired servants shall be taxed at the place where they reside at the time of the constables taking their names as aforesaid, and that every householder shall at the request of the said constables of the respective townships, wards or places give an account of the names, qualifications and estates of such persons as shall sojourn, lodge or dwell in their respective houses under the penalty of forty shillings, to be levied, charged and paid in manner aforesaid.

And if any such freemen shall not be found at such place of residence nor within the same township where their names are taken as aforesaid at the time when such respective collectors shall come to receive such householders' assessment, then (unless such freeman or servant hath by himself or friend paid, or unless such householder or employer doth pay the same for him upon demand made thereof by the collector) it shall and may be lawful for every such collector to make distress and sale of the householder or employer's goods and chattels for the same, rendering the overplus to the owner as aforesaid; and every such householder or employer shall recover the same from every such freeman with charges by warrant from any justice of the peace of the proper county as in case of debts under forty shillings.

[Section XII.] And be it further enacted by the authority aforesaid, That if any of the said commissioners shall refuse or neglect to do his or their duty in the premises, he or they so offending shall be fined by a majority of the justices of the peace of the proper county for the time being, at their next quarter-sessions after the said offense is committed, in any sum not exceeding ten pounds for every offense; which, by virtue of a warrant under the hands and seals of the said

justices or any two of them, directed to the sheriff or coroner of the county where such offender or his estate is at the time of issuing such warrant, shall be levied by seizure and sale of lands, distress and sale of goods or imprisonment of body, as the case shall require; and from and after such refusal or neglect, or if any of the said commissioners shall misbehave themselves or happen to die during the time for which they are chosen, the other commissioners and assessors for the time being at their next meeting next after such death, refusal, misbehavior or neglect shall in every such case appoint others to act in their stead.

And if any of the said treasurers shall refuse or neglect to do his duty as by this act is required, he shall be fined by two or more of the commissioners for the county where he is deficient of his duty in any sum not exceeding ten pounds for every offense, which shall be levied as aforesaid by virtue of a warrant under the hand and seal of two or more of the same commissioners, directed as aforesaid; and from and after such refusal or neglect, or if any of the said treasurers shall happen to die, the commissioners of the proper county shall in every such case appoint others to act in their stead.

And if any of the said assessors shall refuse or neglect to do their duty as this act requires, the commissioners of the proper county or any two of them shall fine every such assessor in any sum not exceeding ten pounds, which shall be levied by one of the same commissioner's warrant in manner aforesaid.

All which fines, with all the other fines and forfeitures mentioned in this act, shall be levied as aforesaid, and shall be paid and added to the public stock of the respective counties where they shall happen.

And the said commissioners shall be allowed four shillings and six pence each for every day's attendance, besides twelve pence for every precept and warrant they are to sign by direction of this act; which, with reasonable charges to be allowed their clerks for delivering the duplicates and other services, besides writing, as the said commissioners in their respective counties (by order under the hand of two of them) shall think

fit to allow, shall be paid by the respective county treasurers.

And the said assessors for their time and labor in the premises shall be allowed six pence per pound for the whole sum contained in the rates of their respective counties after the assessment is rectified and adjusted by the commissioners according to the direction of this act, to be paid by the treasurer upon sight of the commissioner's order for the same and be equally divided amongst them; which said poundage shall be to the assessors for the time being in full satisfaction for all the service and attendance required of them by this act.

And the said collectors shall retain in their hands twelve pence per pound for all sums of money by them respectively collected, together with what they shall pay the assessors as aforesaid.

And those that officiate as clerks shall for their pains in writing the duplicates and all warrants and precepts relating to the premises have and receive as followeth, viz.: The clerk of Philadelphia, four pounds; the clerk of Chester, four pounds; and the clerk of Bucks, three pounds ten shillings, which the respective county treasurer is hereby required to pay them accordingly.

And if any of the said clerks shall neglect to do his or their duty as by this act is required, he or they shall be fined by the commissioners of the proper county in the sum of ten pounds each, to be levied and paid as aforesaid; and in case of death or neglect of any of the said clerks, the commissioners shall forthwith appoint others to act in their stead.

Provided always, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for their justification; and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer discontinuance, or if a verdict pass against him in such action, suit or information, the defendant shall have treble costs, to be recovered as in case where costs by law are given to defendants.

Provided also, That no person or persons shall be sued or

prosecuted for neglect in the execution of this act unless he or they be sued or prosecuted within twelve months after such offense is committed.

Provided also, That no proceedings prescribed or required by this act against collectors and other officers and persons refusing or neglecting to comply therewith shall be stayed by *nolle prosequi* or otherwise; nor any fines or forfeitures arising by this act pardoned or released without payment thereof made to the uses hereby appointed, any law or usage to the contrary notwithstanding.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said commissioners and assessors of the said respective counties for the time being or the major part of them are hereby empowered and required, as often as there may be occasion during the continuance of this act, to choose a treasurer for each county, which treasurers when so chosen, as well as the present county treasurers and every of them, are hereby empowered and required respectively to receive all the money and other effects arising as well from all the [said] assessments, as also the fines and forfeitures which shall be imposed from time to time by virtue of this act.

And that the said respective treasurers for the time being, before they enter upon the execution of their offices, shall become bound to the commissioners of the proper county with one or more sufficient sureties, to wit: The treasurer of Philadelphia county, in an obligation of one thousand pounds; the treasurer of Chester county, in an obligation of eight hundred pounds; and the treasurer of Bucks county, in an obligation of four hundred pounds, conditioned for the true execution of their respective offices and due observation of this act.

And in case of the death or removal of any of the said treasurers, then the commissioners and assessors of the proper county for the time being or the major part of them shall appoint others to supply the places of such as shall so die or be removed from time to time, who shall give security as above; which said respective treasurers shall give security in manner aforesaid and shall keep a distinct book in each county containing a particular account of all the rates and assessments made

or to be made as aforesaid, as also of all disbursements and payments made by order of former commissioners and assessors, with such payments as shall hereafter be made by order of the commissioners by virtue of this act.

And that the treasurers shall yearly, at the next quarter-sessions after midsummer-day in each county of this province, bring in and settle their respective accounts with the said commissioners and assessors, a majority of whom shall give attendance for that purpose, and shall have power to adjourn from time to time till the said accounts are settled; and the treasurers shall be allowed for their trouble in receiving and paying all such moneys as shall come into their hands respectively by virtue of this or the other acts for raising county levies so much as the said commissioners and assessors or the major part of them from time to time shall judge reasonable.

And where any county treasurers shall be removed from their offices of treasurers, they shall deliver up [to] the succeeding treasurers all the books, public accounts and papers belonging to those counties where they acted whole and entire and undefaced, under the penalty of one hundred pounds, to be recovered in manner and for the uses herein above mentioned. And where any county treasurer hath been or shall be removed by death, the executors or administrators of such decedent shall deliver in like manner all the books and papers relating to the said public accounts to the succeeding treasurers under the same penalties, to be recovered as aforesaid.

[Section XIV.] And be it further enacted by the authority aforesaid, That the said acts "for more effectual raising of county levies,"¹ made in the fourth year of his present Majesty's reign, and the said supplementary act, made in the eighth year of the same reign, and all other acts made "for raising and collecting arrears of county levies,"² passed in the several reigns of the late King William and Queen Anne, and every article, clause or thing therein or in any of them contained

¹ Passed February 22, 1717-18, Chapter 231.

² Passed May 12, 1722, Chapter 254.

shall be and are hereby repealed to all intents and purposes whatsoever.

Passed March 20, 1724-25. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and notes to the (two) Acts of Assembly passed November 27, 1700, Chapters 32, 69; and the Acts of Assembly passed May 10, 1729, Chapter 302; August 13, 1732, Chapter 329; August 15, 1732, Chapter 330; March 29, 1735, Chapter 337; February 4, 1748-49, Chapter 376; January 27, 1749-50, Chapter 382; November 27, 1755, Chapter 406; March 4, 1763, Chapter 497; May 30, 1764, Chapter 513; September 26, 1767, Chapter 568; January 22, 1774, Chapter 692: (the Constitution of 1776, Plan of Government, Section 31;) February 12, 1777, Chapter 741; March 11, 1777, Chapter 745; March 16, 1779, Chapter 828; March 29, 1779, Chapter 381; October 1, 1779, Chapter 851; November 27, 1779, Chapter 375; March 18, 1780, Chapter 900; December 19, 1780, Chapter 921; April 13, 1782, Chapter 972; March 25, 1785, Chapter 1140; April 5, 1785, Chapter 1161; March 24, 1786, Chapter 1218; September 22, 1788, Chapter 1358; October 3, 1788, Chapter 1363; March 30, 1791, Chapter 1543; April 6, 1791, Chapter 1545; April 3, 1792, Chapter 1622; April 8, 1794, Chapter 1729; April 17, 1795, Chapter 1852; April 4, 1798, Chapter 1997. Repealed by the Act of Assembly passed April 11, 1799, Chapter 2095.

CHAPTER CCLXXXV.

AN ACT TO REGULATE THE PRACTICE UPON WRITS OF SUMMONS AND ARREST.

Whereas it hath been the earnest endeavors of the legislative power of this government to provide for the liberty of the subject by regulations of this kind without the least design of protecting men's estates from payment of their debts, but so far as justice would permit to maintain the freedom of their persons, according to the ancient common law of England, which suffered not the body in case of debt to be detained in prison, but be at liberty to follow his own affairs and business, &c. And it seems highly just that the same reason should take place in this new colony, where plantations are to be improved by hard labor and great diligence:

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no freeholder inhabiting in any part of this province who hath resided therein for the space of two years and has fifty acres of land or more in fee-simple well seated and twelve acres thereof or more well cleared or improved, or hath a dwelling house worth fifty pounds current money of America in some city or township within this province, clear estate, or hath unimproved land to the value of fifty pounds, like money, shall be arrested or detained in prison by any writ of arrest or *capias ad respondendum* in any civil action unless it be in the King's case or where a fine is or shall be due to the King, his heirs or successors, or unless they be such freeholders as by this act are made liable to be arrested, but that the original process against freeholders shall be a writ of summons under the hand and seal of one of the justices of the court of common pleas for the proper county directed to the sheriff or coroner there as the case may require, commanding [him] to summon the defendant, the form of which writ shall be as followeth, viz.:

George, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. To the sheriff of the county of greeting. We command you, that you summon so that he be and appear before our justices at at our court of common pleas, there to be held day of next, to answer the complaint of of a plea, &c. Witness Esquire day of at in the year of our reign.

And if the defendant in such writ does not appear at the day of the return thereof, but makes default, and the officer to whom such writ was directed or his lawful deputy doth certify to the court upon oath or affirmation that on or before the day of the return of such writ he hath summoned the defendant (mentioning the day he did so) or left notice in writing of such summons at the house of the defendant, in the presence of one or more of his family or neighbors, signifying that the defendant should be and appear according to the contents of such

summons; upon which return, if the defendant has been so served ten days and the plaintiff had filed his declaration in the office of the prothonotary within the space of five days before the court to which such writ is returnable, it shall be lawful to and for the plaintiff in such action to file a common appearance for the defendant so making default, and proceed to judgment and execution by *nihil dicit*.

Provided always, That nothing herein contained shall exempt any person from being arrested or shall debar any person from taking out writs of arrest if the plaintiff in every such writ or somebody for him doth make appear by affidavit upon oath or affirmation (which the justice that grants such writ is hereby empowered and required to administer) testifying that the defendant in the same writ named hath signified his intention of going to sea or of removing out of this province or lurks in secret places or conceals himself in his own or others' houses; or that the defendant in such writs hath refused or neglected upon demand to give either real or personal security for the debt or refused without process to appear and put in special bail to the plaintiff's action for the debt or cause for which he complains; or that the defendant suffered himself to be arrested or judgment to be entered against him; or made over his lands or chattels to others, or suffered them to be attached and made no proper defense to such proceedings; or where the plaintiff can make appear from records or otherwise that so much of the defendant's estate is mortgaged, aliened, entailed or liable to one or more judgments suffered or ordered to be entered against such defendant, so that the value of his fee-simple estate in possession clear of those and all other incumbrances will not (as the deponent believes) be sufficient to satisfy the debt demanded; or that the defendant in such writ hath not been a resident in this province for the space of two years next before the date of the same writ: In all which cases writs of arrest shall be granted and the defendant held to special bail if the case requires it, and the justices that grant the same shall cause all the affidavits they take as above required to be filed by the clerk of the court where such writs are returnable.

But if any freeholder exempted from arrest by virtue of this act shall happen to be taken by any writ of arrest, the court

where such writ is depending shall forthwith upon the defendant's motion stay all further proceedings against him till they examine his circumstances, and if they find he is such as by this act is intended to be exempted, the court shall of their own accord abate the writ and allow the defendant thirty shillings cost, to be paid by him or them that procured such writ, and for non-payment thereof the court shall grant an attachment as in other cases where a rule of court is not complied with.

And if any of the justices or clerks of the said courts or practitioners at law shall contemn this act and willfully proceed in the premises contrary to the direction thereof, they shall be liable to answer, and be fined for the same at the supreme court of this province any sum not exceeding ten pounds.

[Section II.] And be it further enacted, That the act directing the process of summons against freeholders and every article, clause or thing therein contained shall be and are hereby repealed to all intents and purposes whatsoever.

Passed March 20, 1724-25. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed February 14, 1729-30, Chapter 315; January 2, 1778, Chapter 777; (the Constitution of 1790, Article I, Section 17; Article III, Section III;) April 4, 1798, Chapter 1999; March 21, 1806, P. L. 558; April 7, 1807, P. L. 155; April 13, 1807, P. L. 296; March 20, 1810, P. L. 208; March 1, 1811, P. L. 54; February 8, 1819, P. L. 57; March 16, 1833, P. L. 78; April 9, 1833, P. L. 480; March 28, 1835, P. L. 88; March 11, 1836, P. L. 76; June 13, 1836, P. L. 568; April 1, 1837, P. L. 132; April 4, 1837, P. L. 377; (the Constitution of 1838, Article I, Section 18; Article III, Section III;) March 23, 1839, P. L. 130; March 11, 1840, P. L. 122; March 12, 1842, P. L. 66; July 12, 1842, P. L. 339; July 16, 1842, P. L. 391; July 19, 1842, P. L. 498; April 4, 1843, P. L. 131; May 6, 1844, P. L. 564; April 14, 1846, P. L. 328; March 15, 1847, P. L. 361; April 10, 1848, P. L. 441; March 21, 1849, P. L. 216; April 10, 1849, P. L. 600; March 22, 1850, P. L. 257; March 25, 1850, P. L. 277; May 10, 1850, P. L. 1047; April 8, 1851, P. L. 353; April 14, 1851, P. L. 612; April 15, 1851, P. L. 669; May 4, 1852, P. L. 574; March 17, 1856, P. L. 388; April 2, 1856, P. L. 219; April 21, 1858, P. L. 403; April 17, 1861, P. L. 329; March 4, 1862, P. L. 79; March 17, 1869, P. L. 8; April 6, 1870, P. L. 960; (the Constitution of 1873, Article II, Section XV; Article VIII, Sections V and XIV;) May 14, 1874, P. L. 146; July 8, 1885, P. L. 269; May 24, 1887, P. L. 197; May 25, 1887, P. L. 271; April 22, 1889, P. L. 41.

CHAPTER CCLXXXVI.

AN ACT FOR CONTINUING THE BOUNTY UPON HEMP.

Whereas in and by an act passed in the eighth year of his present Majesty's reign there is a bounty of one penny per pound to be paid for all good and merchantable hemp raised within this province; but forasmuch as the said act is near expiring, and it is found by experience the same has in some measure answered the good intention thereof:

Therefore to the end that the people of this province may be further encouraged in the raising of good and merchantable hemp:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be paid out of the public revenue of this province, as an encouragement or bounty for all good, sound, well-dressed, merchantable hemp, suitable and fit for exportation, that shall grow and be raised in this province by any person or persons whatsoever from and after the twenty-second day of May next after the publication of this act until the full end and expiration of five years next ensuing, one penny for every pound of such merchantable hemp raised as aforesaid.

[Section II.] And be it further enacted, That a good and convenient warehouse (if occasion require) shall be kept at the charge of the public by the officer hereinafter appointed, into which the said officer shall receive all such quantities (not being less than twenty-five pounds in one parcel) of sound, well-dressed, merchantable hemp as aforesaid as shall be brought to him by the person or persons who shall raise the same; and upon such person or persons making oath or affirmation before the said officer that he, she or they did truly and *bona fide* raise the said hemp [within this province, and that the same hath not] nor any part thereof has ever before been tendered to the

said officer or any bounty paid or allowed for the same, which oath or affirmation the officer is hereby empowered to administer, he the said officer shall forthwith pay to such person or persons out of the money of the public in his hands one penny for every pound weight of such hemp as aforesaid, and shall give to the owner of the said hemp a receipt under his hand for the quantity by him received certifying the same to be good and merchantable, for the trouble of which the said officer shall be allowed by the public one shilling for every hundred pounds, and so proportionably for a greater or lesser quantity and no more.

And all such hemp shall lie in the said warehouse, if the owner thinks fit to store it, till such time as he or some person by his order shall apply to the said officer with his receipt for the said hemp, upon producing of which receipt the said hemp for which such receipt was given shall be delivered in the same good order in which it was received to the said owner or his order (casualties of fire and such like accidents excepted) without any further charge, saving porters' hire and an allowance of four pence per hundred for attending the same.

[Section III.] And be it enacted by the authority aforesaid, That Charles Read, appointed collector for receiving the excise, be and is hereby appointed the officer for receiving and viewing all such hemp as aforesaid and for paying the bounty hereby granted and allowed for the term aforesaid.

Passed March 20, 1724-25. Expired before being considered by the Crown. See note to the Act of Assembly passed May 22, 1722, Chapter 257; and the Acts of Assembly passed May 6, 1727, Chapter 294; February 14, 1729-30, Chapter 316; January 10, 1731-32, Chapter 328.

CHAPTER CCLXXXVII.

AN ACT FOR THE BETTER SECURING THE CITY OF PHILADELPHIA FROM THE DANGER OF GUNPOWDER.

Forasmuch as the city of Philadelphia is destitute of any magazine or other suitable repository for the safe-keeping of gunpowder, which, being a commodity of good consideration in

the trade of this province, the merchants and traders are frequently reduced to the necessity of keeping it on shipboard within the port of the said city or to deposit the same in the stores and shops, too often within the access of sailors and servants, to the manifest danger of the people of the said city in their persons and estates. And forasmuch as William Chancellor, of the said city, sailmaker, by the recommendation of divers of the magistrates as well as merchants and others of the said city, hath undertaken to build a suitable powderhouse or store for the receipt of all the gunpowder which shall or may be imported into the said city on a piece of ground he lately purchased from Daniel Pegg, lying near the north end of the said city adjoining to a swamp on the south side, and upon the King's high road on the east end thereof:

[Section I.] Be it therefore enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said William Chancellor, his heirs, executors or assigns, shall at his and their proper costs and charges cause to be well erected and built a good, substantial, tight and secure powder house or store for gunpowder of brick or stone on the piece of ground aforesaid within three months next ensuing the publication of this act, to be well boarded and covered and so fit and capacious as may reasonably be expected will contain all the gunpowder to be from time to time imported into the said city, wherein he the said William Chancellor, his executors and assigns, shall lay up and store all the gunpowder to be from time to time imported or brought into the said city which shall come to his or their receipt pursuant to the direction of this act, and for which he and they shall be accountable to the owners or deliverers thereof (lightning and other unavoidable accidents excepted), and shall also cause daily attendance to be given at the powder store aforesaid, betwixt the hours of nine and eleven in the morning and one and three in the afternoon, for delivering out the said commodity, and also at all times on due notice given for receiving thereof at the nearest and most convenient landing to the said lot of ground; and im-

mediately upon his receiving into his custody any quantity of powder as aforesaid, he shall pass his receipts in writing for the same, expressing the quantity of powder and describing the marks and numbers of the cask.

[Section II.] And be it further enacted by the authority aforesaid, That no person whatsoever within the precincts of the city of Philadelphia aforesaid nor within two miles thereof shall from and after the time the powder store aforesaid is so erected and finished presume to keep in any house, shop, cellar, store or place of the [said] city nor within two miles thereof, other than the powder store aforesaid, any more or greater quantity at any one time than twelve pounds of gunpowder under the penalty of ten pounds for every such offense. And whatsoever master, merchant or other person trading or bringing into the said port any gunpowder (other than such as shall be specially licensed in that behalf by the governor of this province for the time being, or shall be commissioned by the King's Majesty or other authority under the Crown of Great Britain) shall not within the space of forty-eight hours from his first arrival and coming to anchor there, upon due notice given him of the purport of this act by the said William Chancellor or his assigns or any of his or their deputies or servants, deliver all the powder so brought into the said port as aforesaid unto the said William Chancellor, his executors or assigns, shall forfeit the like sum of ten pounds for every such offense.

[Section III.] And be it further enacted by the authority aforesaid, That the said William Chancellor, his executors and assigns, shall have and receive for storage for gunpowder at the powder store aforesaid twelve pence per barrel per month, and so proportionably for half barrels and other cask, for the first six months; and six pence per barrel per month, and so proportionably for half barrels and other cask, for every month any of the said powder remains in the said store above six months; and likewise shall have and receive for every twelve pounds or lesser quantity, to be delivered at one time, six pence over and above the said storage.

[Section IV.] Provided always nevertheless, and be it [further] enacted by the authority aforesaid, That what quan-

tity of powder soever of the ship's store of any vessel shall be so as aforesaid delivered to be kept at the said powder store, and shall be re-demanded back again in order for its exportation out of this province, the said William Chancellor, his executors or assigns, shall cause the same to be re-delivered at the nearest and most convenient landing to the said powder store without exacting any other perquisite for such re-delivery than what is hereinbefore allowed for storage; and if the said William Chancellor, his executors or assigns, shall neglect to give due attendance at the powder house aforesaid as is hereinbefore directed and appointed, or shall take or exact greater or larger sum or sums of money for storage and delivery of said powder than is hereinbefore limited and appointed, he or they so offending shall (on due proof thereof, made by one or more credible witnesses before any one justice of the peace of the city or county of Philadelphia) forfeit and pay for every such offense such sum of money as the said justice shall think fit to award, not exceeding the sum of thirty shillings for any one offense.

[Section V.] And be it further enacted by the authority aforesaid, That all and singular the penalties and forfeitures arising by this act (excepting those under forty shillings) shall be recovered in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed, the one moiety of which forfeitures and penalties shall go to the governor for the support of this government, and the other moiety thereof to the informer or prosecutor who shall sue for the same.

[Section VI.] And be it further enacted by the authority aforesaid, That the clause in an act of assembly of this province (entitled "An act for preventing accidents that may happen by fire in the town of Bristol, formerly called Buckingham, Philadelphia, Germantown, Derby, Chester, Newcastle and Lewes, within this government"),¹ enacting that no person within the town of Philadelphia within six months next following the publication of the same act presume to keep in their

¹ Passed October 28, 1701, Chapter 110.

houses, shops or warehouses more than six pounds of gun-powder at one time, unless it be forty perches distant from any dwelling, under the penalty of ten pounds for every such offense, is hereby repealed and declared [null] void and of none effect, and that this present act shall continue in force for and during the term of twenty-one years and no longer.

Passed August 14, 1725. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed May 8, 1747, Chapter 372. The Act in the text was repealed by the Act of Assembly passed December 6, 1783, Chapter 1059; March 20, 1866, P. L. 137.

CHAPTER CCLXXXVIII.

AN ACT FOR THE BETTER PREVENTING OBSTRUCTIONS TO THE NAVIGATION OF CHESTER CREEK AND OTHER NAVIGABLE CREEKS AND RIVERS IN THIS PROVINCE.

Whereas in the year one thousand seven hundred it was thought necessary for the better accommodation of the borough of Chester, in the county of Chester, and the inhabitants of the lower parts of the said county, as well as travelers, that the King's high road should be altered and brought nearer to the river, to pass through the said borough with a bridge over the said creek there; and thereupon, in consideration of the owners of lands, and especially of the mills situate on the said creek above the said borough, which had been erected at great charge, and required the same to maintain and support them for the benefit of trade, an act was passed in the said year that the road should be laid out as aforesaid through the said borough and a drawbridge should be there built, and that a person should attend the same to draw it up that sloops and shallops might pass to and from the said mills; and also that for the conveniency of rafts of logs passing to the said mills the space of twenty foot at least should be left clear between the timber or stone-work, which drawbridge was accordingly erected but now is gone to decay and requires to be rebuilt or repaired:

[Section I.] Therefore be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the commissioners for the time being appointed for the said county of Chester shall cause the said drawbridge to be rebuilt or repaired within the space of twelve months next after the publication hereof, according to the dimensions in the said-recited act, and from time to time shall cause it to be continued in repair for the accommodation of the said mills and of the owners of lands and inhabitants on the navigable parts of the said creek above the borough aforesaid, and also for the accommodation of all such persons as have occasion to pass and repass with any mast vessel through the said bridge, who are hereby obliged carefully to raise and lower the said drawbridge, so as the same may receive no damage thereby, under the penalty of five shillings for every neglect or offense therein.

And whereas the erecting of bridges over creeks or rivers of water, to the obstruction of their navigation where navigable, doth not only affect the interest of the owners of land upon and near navigable waters above those bridges, but also the trade of this province in general; and the better to preserve the navigation of those rivers and creeks, divers laws of this province have from time to time been enacted, but the same upon experience have been found not fully to answer the ends thereby intended.

[Section II.] Be it therefore further enacted by the authority aforesaid, That no bridge, frame or device whatsoever shall at any time to come be made, erected, upheld, sustained or repaired over any creek or river within this province navigable for any sloop, shallop, flat or other craft that shall or may anywise stop or hinder the navigation of any such sloop, shallop, flat or other craft or floats of logs, any law, custom or usage to the contrary thereof in anywise notwithstanding.

[Section III.] Provided always, That nothing herein contained shall be construed to forbid or hinder the maintaining and repairing the drawbridge hereinbefore particularly mentioned or any other bridge erected by public authority, or the

making of dams, mounds or tide-banks for the draining of low grounds and improving of meadows by the owners or owner of the greater part of the lands, low grounds or meadows included within the same dams, mounds or tide-banks, anything herein contained to the contrary in anywise notwithstanding.

Passed August 14, 1725. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed September 3, 1778, Chapter 808; March 23, 1803, P. L. 389; April 12, 1855, P. L. 220; May 25, 1887, P. L. 268.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1725, and continued by adjournment until the twenty-fifth day of August, 1726, the following acts were passed:

CHAPTER CCLXXXIX.

AN ACT FOR THE RE-EMITTING AND CONTINUING THE CURRENCY OF SUCH BILLS OF CREDIT OF THIS PROVINCE AS BY FORMER ACTS ARE DIRECTED TO BE SUNK AND DESTROYED, AND FOR THE STRIKING AND MAKING CURRENT £10,000 IN NEW BILLS, TO SUPPLY THOSE THAT ARE TORN AND DEFACED.

Whereas by an act of general assembly of this province, passed in the ninth year of his present Majesty's reign, bills of credit of fifteen thousand pounds value were struck and emitted, which, being found to fall short of a medium in trade and to supply the exigencies of such as had occasion to borrow upon securities prescribed by the same act, and to provide for the support of this government, therefore, by another act passed in the tenth year of his said Majesty's reign, bills of credit of thirty thousand pounds value were also struck and emitted.

And whereas as the annual sinking and destroying the said bills, pursuant to the same acts, hath already considerably reduced the quantity of this currency and the bills themselves (more especially of the lesser denominations) daily impairing, many of them are scarce fit to pass; which inconveniencies increasing, will shortly reduce the people of this province to great straits and difficulties unless some proper remedy be provided:

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of

the same, That such yearly quotas or payments (parcel of the principal sums emitted, in bills of credit of this province, pursuant to the direction of the said acts respectively) and such other principal sums which by virtue thereof or of any mortgage-deed or assurance thereby directed to be taken are, shall or may be paid, recovered or received from time to time from and after the seventeenth day of January, one thousand seven hundred and twenty-five, and before the sixteenth day of January, one thousand seven hundred and thirty-one, shall not be sunk or destroyed, nor shall any part or parcel of any such quotas or principal sums in bills of credit, payable within the space aforesaid unto the trustees nominated or to be nominated pursuant to the direction of those acts, be sunk or destroyed as the same acts or either of them direct; nor shall the said trustees or any of them nor any other person be culpable for not sinking or causing to be sunk or destroyed any bills of credit which they are by the same acts respectively directed to sink or to cause to be sunk or destroyed.

[Section II.] Therefore be it further enacted by the authority aforesaid, That neither the said trustees appointed by the two acts aforesaid nor any of them, nor any other person or persons whatsoever, shall presume to sink or destroy any of the said bills of credit otherwise or at any other time than is by this act particularly directed and appointed; nor shall any of them or their sureties, nor the heirs, executors or administrators of any of them, suffer any penalty, forfeiture or loss for not sinking or destroying the said bills of credit according to the tenor and direction of either of the said two acts made for emitting the same, but that every such part and parts, clause and clauses of the said two acts as are hereby altered or concerning which any other provision is made by this act, and so much of those acts as doth or may concern or relate to the sinking of the said bills, and the oaths or affirmations required, administered and taken by the said trustees for discharging their said trusts, together with the said oaths and affirmations themselves, shall be and are hereby repealed, utterly abrogated and made void to all intents and purposes

whatsoever, any law or usage to the contrary in anywise notwithstanding.

But that the same yearly quotas and principal sums in bills of credit so to be paid in, unto and received by the said trustees or any of them within the time before limited, whether payable by the provincial or any of the county treasurers, or by the mayor or treasurer of Philadelphia, or by any mortgagor or persons whatsoever, and every part and parcel of the same sums, shall from time to time be re-emitted by the trustees of the general loan office of the province of Pennsylvania for the time being upon loans as hereinafter mentioned and appointed.

[Section III.] And it is hereby provided and enacted, That the said treasurers and mayor of Philadelphia aforesaid are hereby required to pay such of the yearly quotas and sums as by the said acts they are directed to pay within the time aforesaid unto the said trustees and none other, who are hereby required to give their receipts for the same, which receipts shall be sufficient discharges in the law, the same acts or anything therein contained to the contrary notwithstanding.

And that all the yearly quotas or parcels of the principal sums arising upon these re-emissions which shall be paid into the general loan office of the province of Pennsylvania on or before the sixteenth day of January, one thousand seven hundred and thirty-one, shall by the trustees thereof for the time being be re-emitted again on securities as aforesaid, and so from time to time until all principal moneys anyways accruing that shall be paid unto them on or before the sixteenth day of January, one thousand seven hundred and thirty-one, shall be wholly re-emitted.

[Section IV.] And be it further enacted by the authority aforesaid, That the trustees of the general loan office aforesaid shall lend out the value of all the bills of credit that they shall receive to be re-emitted, as before in this present act directed, in sums not exceeding one hundred pounds nor less than twelve pounds ten shillings to any one person, for and during all the rest and residue of the twelve years and a half in the said-re-cited thirty-thousand-pound act limited, commencing from the

times of the same respective loans by this present act; to be made upon securities of messuages, lands, tenements, rents and hereditaments in this province, of which the respective mortgagors stand seized in fee-simple, clear of incumbrances, the proprietary's quit-rents and other rents discovered to the said trustees issuing out of the same securities excepted, of which title and clearness the said trustees are to inform themselves the best they can, and to observe the same directions in the valuation thereof and in proportioning such valuation to the sums requested to be lent as the same thirty-thousand-pound act before recited directeth upon loans thereby made; whereupon the said trustees, in pursuance of the trust hereby committed to them, shall in the name and style of the trustees of the general loan office of the province of Pennsylvania and not otherways, take and receive deeds of mortgage in fee-simple of such messuages, lands, tenements, rents or hereditaments as aforesaid for securing the repayments of the sums they lend, to be made yearly and every year of the remainder of the twelve years and a half aforesaid by even and equal annual payments, and so proportionably for the part or parts of a year as occasion may happen, together with the whole interest at the rate appointed by the said acts; which deeds executed and acknowledged, or proved as hereinafter mentioned, shall transfer the possession and vest the inheritance to and in the trustees of the general loan office aforesaid and their successors in trust in the same manner and form and as fully and effectually as the said thirty-thousand-pound act transferreth and vesteth the possession and inheritance of and in lands and hereditaments thereby mortgaged; and the words, "grant, bargain and sell," in the mortgage-deeds hereby directed to be taken shall amount unto and be construed and adjudged of the same virtue, force and effect, to all intents, constructions and purposes in the law whatsoever, as the words, "grant, bargain and sell," are in the same thirty-thousand-pound act mentioned and intended to be of, and that as fully and effectually as if here again particularly repeated and expressed.

And that the said trustees of the general loan office as such

and in pursuance of the trust hereby committed to them shall also receive and take of each mortgagor, together with his mortgage-deed, an obligation and warrant of attorney with a release of errors in the same warrant inserted under his hand and seal duly executed, the obligation in double the sum borrowed and conditioned for payment of the mortgage-moneys, according to the proviso or condition of the mortgage-deed, and the warrant of attorney authorizing and empowering such person or persons as the said trustees shall direct, therein to be nominated for that purpose, to acknowledge or suffer judgment, which judgment the said trustees for the time being are hereby required to cause their attorney to enter against such mortgagor as shall make default in payment of the mortgage-money or any part thereof in the like manner and form and as fully and effectually as the said thirty-thousand-pound act directeth to be entered against such defaulters, in the sense of the same act to all intents and purposes.

On every of which deeds of mortgage shall be indorsed the mortgagor's oath or affirmation, which the said trustees or any one of them is hereby empowered and required to administer, which shall be of the same tenor, form and efficacy and have the same exceptions as the said thirty-thousand-pound act prescribeth borrowers of the sums thereby emitted on securities.

And the same mortgage-deeds (for the better preservation of securities hereby directed to be taken), being so executed as aforesaid and acknowledged by the mortgagor, or proved by two of the witnesses to the execution thereof before any justice of the peace of any county of this province, shall be entered at large in books of royal or other large paper well covered or bound, to be provided and kept by and at the proper charge of the trustees, which deeds so entered shall be and are hereby declared to be matter of record, and an attested copy of any such entry, certified under the hands of the said trustees for the time being or any three of them, shall be and is hereby declared to be good evidence to prove the sale or mortgage thereby mentioned to be made, and the same may be showed, pleaded and made use of accordingly.

[Section V.] And be it further enacted by the authority

aforesaid, That each payment of mortgage-moneys inserted in any mortgage-deeds hereby directed to be taken being paid, the trustees or any of them shall endorse on the deed a receipt for the same under his or their hand, and so from time to time until the whole sum lent with the interest accruing be fully paid and satisfied, and upon full payment and satisfaction (which the mortgagor, his heirs, executors or administrators, may make of the principal sums lent at any time before forfeiture and sale of the mortgaged premises with interest to the time of such payment at the rate aforesaid) the mortgage shall be released and delivered by the mortgagees thereof, from which time the lands and hereditaments so mortgaged shall be forever acquitted and discharged, and the mortgagees shall thereupon make an entry in the margin of the enrollment of such mortgage-deed of the day and time of such release and discharge, for which there shall be paid by the mortgagor the sum of six pence and no more, an attested copy of which entry, certified by the trustees of the said general loan office or a majority of them, shall be as valid and effectual as their reconveyance of the mortgaged premises made and executed in due form of law may or can be to the mortgagors, their heirs and assigns respectively.

Provided always, That until some default shall be made in payment by the respective mortgagors it shall be lawful for them and their heirs to hold and enjoy the mortgaged premises with the appurtenances, the mortgage-deeds or anything therein to the contrary notwithstanding.

But if any default shall be made or suffered of or in payment of any of the yearly sums hereinbefore mentioned, whether in part or principal or interest, which any of the mortgagors (by this present act), their heirs, executors, administrators or assigns, should or ought to have paid at any of the days, time or place in and by their respective mortgage-deeds, to be particularly specified, then and so often and in any such case it shall and may be lawful for the said trustees for the time being, at their discretion, to take their remedy and proceed for recovery of the mortgage-moneys according to the provisos or conditions in the mortgage-deeds respectively contained, or by

any such ways or means as are particularly directed in and by the said thirty-thousand-pound act for recovery of sums thereby emitted, with and under all and singular the like provisos, conditions and limitations thereby directed as if the same were here again particularly enumerated and expressed. And the sales and assurances by this act to be made shall be of the same force and effect to the purchasers and as valid and conclusive against all other persons as any sale by that act directed to be made may or can be to all intents and purposes in the law whatsoever.

[Section VI.] And be it enacted by the authority aforesaid, That indented bills of credit to the value of ten thousand pounds current money of America, according to an act of Parliament made in the sixth year of the reign of the late Queen Anne, referred to by the said two acts, with counterparts of the same bills, shall be prepared and printed before the twenty-fifth day of March next ensuing on good paper under the care and direction of the trustees of the said general loan office, but at the charge of the province, to be paid by the said trustees or by the provincial treasurer by their order.

[Section VII.] And be it further enacted by the authority aforesaid, That the said bills shall severally contain therein the sums hereafter respectively mentioned and no other: (That is to say) nine thousand of the same bills, the sum of one shilling in each of them; ten thousand of the same bills, the sum of one shilling and six pence in each of them; three thousand of the same bills, the sum of two shillings in each of them; eight thousand of the same bills, the sum of two shillings and six pence in each of them; twenty thousand of the same bills, the sum of five shillings in each of them; and five thousand of the same bills, the sum of ten shillings in each of them. And the said original bills shall have the same arms impressed thereon and be of the same tenor and form as original bills of the same denomination respectively are directed and appointed to be of by the said-recited thirty-thousand-pound act, save only the difference in the date and names of the signers thereunto subscribed.

And that all and singular the bills which shall be made and

issued in pursuance of this present act, and all and singular other the bills of credit of this province issued in pursuance of the said-recited acts of assembly respectively which hitherto remain unsunk, shall in all respects have the same currency and be of the same effect in law and equity with respect to payments, tenders or bringing the same into court for performance of any contract, bargain or promise whatsoever, and to all other intents and purposes as any other bills of credit emitted by virtue of the said thirty-thousand-pound act may, can or ought to have and be of.

And that persons offering to sale goods or chattels, lands or tenements, or [who] refuse to sell or ask a greater value for the same unless paid in silver, gold or other specie whatsoever and not in the bills of credit made current by this present and those former acts or any of them, shall incur the same penalties as persons in the like cases ought to incur by the said thirty-thousand-pound act.

And that whatsoever person or persons shall presume to forge or counterfeit any of the said bills of credit issued in pursuance of this present or either of the said former acts or shall be aiding or assisting therein, or shall enlarge the value or sum expressed in any of the said bills, or shall utter or cause to be uttered or offered in payment any such bill or bills knowing the same to be actually forged, counterfeited or the sum or value therein altered with an intent to defraud any other person, he, she or they so offending and being thereof legally convicted shall for every such offense incur and suffer the same pains and penalties respectively as forgers or counterfeiters of bills are by the said thirty-thousand-pound act directed to incur and suffer; and the discoverer or prosecutor by virtue of this present act shall be paid and satisfied his damages with costs and charges of prosecution in like manner as the discoverer and prosecutor by virtue of the same thirty-thousand-pound act is or ought to be paid and satisfied. And that no suit or prosecution whatsoever to be commenced or brought against any person or persons in order to recover any of the said penalties be stayed before judgment or conviction.

[Section VIII.] And be it further enacted by the authority

aforesaid, That each of the said new bills to be made by virtue of this act shall be signed and numbered by the persons hereby appointed signers of the same bills, to wit: Evan Owen, John Wright and Thomas Tresse. And if any of the said signers shall happen to die or be rendered incapable of doing his duty required by this act, the assembly for the time being shall appoint other persons to supply such deficiencies from time to time until all the bills to the said value of ten thousand pounds shall be signed, and together with their counterparts numbered and delivered as this act directs.

But before any of the persons before nominated or hereafter to be appointed signers of bills of credit by virtue of this act presume to act therein, they shall take an oath or affirmation before any one justice of the peace of the city or county of Philadelphia, who is hereby empowered and required to administer the same, charging them jointly and severally that they will well and truly sign and number all the said original bills of credit and number their counterparts that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver or cause to be delivered to the trustees of the general loan office of this province, pursuant to the directions of the same act.

[Section IX.] And be it further enacted by the authority aforesaid, That the said trustees within ten days after the said new bills and counterparts are prepared and deposited with them, as by this act is directed, shall deliver out at the place where they keep the said loan office the value of one thousand pounds out of the said ten thousand pounds to the signers hereby appointed, who, having signed and numbered the original bills so delivered them and truly numbered the counterparts thereof, shall immediately re-deliver them to the said trustees, who shall thereupon give their receipts for the same.

And after the said bills to the value of one thousand pounds aforesaid are exchanged by the said trustees as this act directs, then the trustees of the said loan office for the time being shall within ten days next after deliver out at their said office to the signers of bills for the time being the further value of one thousand pounds more of the said ten thousand pounds, who, hav-

ing signed and numbered the original bills so delivered them and numbered the counterparts thereof, shall immediately re-deliver them to the trustees, who shall thereupon give their receipts as abovesaid; and so from time to time till the whole value of the said ten thousand pounds, by delivering, signing, numbering and re-delivering one thousand pounds value at a time, shall be exchanged as this act directs; and the said counterparts so numbered and re-delivered as aforesaid shall be kept by the said trustees for trying the truth of their originals when there shall be occasion.

And the said signers shall cause to be kept a true account of all the bills they so respectively sign and deliver as aforesaid. And for their care and trouble required of them by this act the signers of each thousand pounds parcel shall receive three pounds apiece in six days after their delivery thereof with their counterparts as above directed, to be paid by the trustees for the time being unto each signer, his executors, administrators or assigns.

[Section X.] And be it further enacted by the authority aforesaid, That the said trustees shall be styled, as heretofore, "The Trustees of the General Loan Office of the Province of Pennsylvania," and shall have succession and the same capacities and powers for putting this present and those two other acts in execution to all intents and purposes as in the said thirty-thousand-pound act is contained and settled for putting the same in execution, subject, nevertheless, to all and singular the provisos, alterations, limitations and restrictions in and by this present act provided and enacted.

[Section XI.] And it is hereby further provided and enacted, That every article, clause and sentence in the said two former acts respectively (except such clauses and parts thereof as are hereby altered, supplied or concerning which other provision is hereby made) shall be and are hereby declared and enacted to be of full force and virtue in the law.

[Section XII.] And be it further enacted by the authority aforesaid, That before any of the said trustee or trustees for the time being shall be in or enter upon the execution of the trust by this act required, they shall each one of them enter into a

bond to the provincial treasurer of this province for the time being in the penalty of five hundred pounds, conditioned for the due observance of all things required of him in performance of the trust reposed in him by this present act, and shall each of them also make oath or affirmation before any justice of the peace of the city or county of Philadelphia, who is hereby empowered and required to administer the same, that, to the best of his skill and knowledge, he will faithfully, impartially and truly demean himself in the discharge of the trust committed to him by this present act, as also in the discharge of the remaining part of the trust committed to him by the two recited acts, so as none may be prejudiced by his consent, privity or procurement.

And that the said trustees, assuming upon themselves the execution of the trust by this present act required of them, shall be allowed for their service and trouble therein at and after the rate of twenty pounds per annum each, added to their salaries hereafter accruing by the said former acts, payable to each of them in bills of credit of this province for and during the continuance of the said thirty-thousand-pound act; and that [they] the said trustees or any two of them shall duly attend at the said loan office the first third day of the week, called Tuesday, in the months called March, May, July, September, November and January, yearly, for receiving the sums to be paid in pursuant to this and the said two former acts respectively, and for emitting the sums to be lent by the direction of this present act, until all the quotas to be paid in pursuant to this and the said former acts be re-emitted, and afterwards at such times as the trust and service of the public may require them during the continuance of the said thirty-thousand-pound act; and that the said trustees or one of them or some other person under their direction and for whom they shall be accountable shall duly attend at the place where the said office is kept on the first fourth day of the week, called Wednesday, in every month, then and there to deliver out new bills of the ten thousand pounds value hereby directed to be struck to such persons as demand them in exchange and in lieu of such torn and defaced bills as the said trustees or any of them shall judge to be

genuine bills of this province and of equal value with those they so give in exchange until the whole ten thousand pounds value aforesaid be wholly exchanged; which torn and defaced bills, being kept by the said trustees, shall by them be produced for their vouchers to discharge themselves of the ten thousand pounds value aforesaid before any committee of assembly to be appointed auditors of the said trustees' accounts, who shall thereupon cause the said torn and defaced bills to be sunk and destroyed.

And that the clerk hereinafter appointed shall once a year make out a list of the securities by this act directed to be taken, containing the persons' names to whom the sums are lent and the times when; and the same lists shall submit and deliver to the assemblies of this province for the time being from time to time until all the sums hereby directed to be emitted be wholly comprehended and delivered.

[Section XIII.] And be it further enacted by the authority aforesaid, That any committee of assembly of this province, being appointed auditors of accounts of the said trustees, the same auditors for the time being shall once in every year or oftener call the said trustees to account for all the moneys in bills of credit they shall receive, recover and pay, exchange or emit in pursuance of this act, and all the interest to be received upon securities hereby directed to be taken (whether the same interest accrue on or before the said sixteenth day of January, Anno Domini one thousand seven hundred and thirty-one, or afterwards) being accounted for and the salaries and charges allowed by this act being deducted, they the said trustees shall dispose thereof as the assemblies of this province shall from time to time order and direct.

And that all the yearly quotas or parcels of the principal sums which shall or ought to be paid in into the said loan office aforesaid at any time after the said sixteenth day of January, one thousand seven hundred and thirty-one, remaining in the hands of the trustees thereof for the time being shall within ten days after every such audit be sunk and destroyed by or in the presence of the same auditors respectively, they having first compared the original bills with their counter-

parts as they shall have occasion and entered the number and value of each bill so destroyed into a book to be kept for that purpose.

[Section XIV.] And be it further enacted by the authority aforesaid, That Charles Brockden, of Philadelphia, shall be and is hereby nominated and appointed to be clerk of the general loan office hereby erected during the continuance of this act, to advise and assist the trustees thereof in and about the titles aforesaid and for the devising and preparing of the mortgage-deeds and writings of the mortgagors hereinbefore directed to be given and for recording of the same mortgage-deeds. And in case of the removal of the said Charles Brockden by death or otherwise the said trustees for the time being shall appoint a fit person to supply his place, and so from time to time during the continuance of this act as often as there shall be occasion; which persons so to [be] nominated shall thereupon act in that station until the general assembly of this province for the time being disapprove such appointment by nominating another in his stead, any law or usage to the contrary notwithstanding. And that the said clerk, for his trouble, care and diligence, shall have and receive of every mortgagor the like fees and perquisites as the said thirty-thousand-pound act specifieth and directeth to be paid in like cases to the clerk thereby directed to be chosen. But before the person hereby nominated or hereafter to be elected clerk aforesaid shall enter upon the execution of his duty aforesaid, he shall enter into bond to the provincial treasurer for the time being in the penalty of five hundred pounds conditioned for the due observance of all things required of him by this act, and shall also take an oath or affirmation before any one justice of the peace of the city or county of Philadelphia, who is hereby empowered and required to administer the same, that he shall truly and faithfully perform and execute the office and duty that is directed and required of him by this present act, and that he will keep a just and true account of the names of all such persons as shall apply unto the loan office aforesaid for bills of credit, and will prepare and record the deeds of mortgage in the same order of time as their applica-

tions are made without any undue preference, unnecessary delays or fraudulent practice.

[Section XV.] And be it further enacted by the authority aforesaid, That after all the sums and bills of credit to be received by the trustees of the general loan office aforesaid are so by them accounted for and sunk pursuant to the direction of this act, the same trustees and trustees for the time being, their heirs, executors and administrators and every of them, shall thenceforwards stand and forever be clearly discharged and acquitted of and from all manner of obligations, securities, actions, causes of actions, and of and from all further or other accounts and demands whatsoever, to be made or rendered by them of or for any trust unto them committed or anything by them done in pursuance of this act.

Passed March 5, 1725-26. See Appendix VII, Section I, and note to the Acts of Assembly passed March 2, 1722-23, Chapter 261; and the Acts of Assembly passed May 10, 1729, Chapter 300; February 14, 1729-30, Chapter 310; August 15, 1730, Chapter 317; February 6, 1730-31, Chapter 319; August 25, 1738, Chapter 345; (the two acts of) May 19, 1739, Chapters 348, 353; May 26, 1744, Chapter 361; March 7, 1745-46, Chapter 363; June 24, 1746, Chapter 370; February 4, 1748-49, Chapter 373; June 28, 1755, Chapter 402; November 27, 1755, Chapter 406; September 21, 1756, Chapter 412; March 23, 1757, Chapter 422; June 17, 1757, Chapter 423; April 22, 1758, Chapter 431; April 17, 1759, Chapter 437; June 20, 1759, Chapter 444; September 29, 1759, Chapter 448; April 12, 1760, Chapter 453; March 14, 1761, Chapter 464; September 26, 1761, Chapter 470; May 14, 1762, Chapter 483; April 2, 1763, Chapter 499; October 22, 1763, Chapter 505; March 23, 1764, Chapter 509; May 30, 1764, Chapter 513; September 20, 1766, Chapter 547; May 20, 1767, Chapter 559; September 26, 1767, Chapter 569; February 17, 1768, Chapter 571; (the three acts of) February 18, 1769, Chapters 579, 580, 586; May 27, 1769, Chapter 595; September 30, 1769, Chapter 599; September 29, 1770, Chapter 617; March 9, 1771, Chapter 622; (the two acts of) March 21, 1772, Chapters 656, 661; September 19, 1772, Chapter 670; February 26, 1773, Chapter 672; (the two acts of) September 28, 1773, Chapters 686, 688; January 22, 1774, Chapter 692; July 23, 1774, Chapter 697; September 29, 1774, Chapter 699; December 14, 1774, Chapter 700; September 30, 1775, Chapter 715; August 1, 1776, Chapter 728; January 29, 1777, Chapter 738; (the two acts of) March 20, 1777, Chapters 752, 753; June 13, 1777, Chapter 755; October 13, 1777, Chapter 767; December 10, 1777, Chapter 768; December 23, 1777, Chapter 771; March 23, 1778, Chapter 791; May 25, 1778, Chapter 800; December 5, 1778, Chapter 823; March 20, 1779, Chapter 830; November 26, 1779, Chapter 869; March 8, 1780, Chapter 888; March 25, 1780, Chapter 907; May 31, 1780, Chapter

911; June 1, 1780, Chapter 912; September 22, 1780, Chapter 918; December 19, 1780, Chapter 921; December 22, 1780, Chapter 923; December 23, 1780, Chapter 924; February 20, 1781, Chapter 927; April 7, 1781, Chapter 939; April 10, 1781, Chapter 942; June 21, 1781, Chapter 945; June 25, 1781, Chapter 948; April 13, 1782, Chapter 978; April 15, 1782, Chapter 983; September 21, 1782, Chapter 995; January 31, 1783, Chapter 1003; March 12, 1783, Chapter 1008; March 13, 1783, Chapter 1011; March 16, 1785, Chapter 1137; April 4, 1785, Chapter 1159; September 10, 1785, Chapter 1174; March 1, 1786, Chapter 1202; March 17, 1786, Chapter 1212; March 18, 1786, Chapter 1214; April 8, 1786, Chapter 1225; (the two acts of) March 28, 1787, Chapters 1282, 1283; November 27, 1787, Chapter 1328; March 22, 1788, Chapter 1340; March 29, 1788, Chapter 1348; November 22, 1788, Chapter 1384; March 21, 1789, Chapter 1402; March 27, 1789, Chapter 1415; November 20, 1789, Chapter 1467; December 4, 1789, Chapter 1470; December 8, 1789, Chapter 1473; March 29, 1790, Chapter 1502; April 1, 1790, Chapter 1506; April 7, 1791, Chapter 1554; April 9, 1791, Chapter 1560; September 30, 1791, Chapter 1594; April 10, 1792, Chapter 1646; February 9, 1793, Chapter 1663; April 11, 1793, Chapter 1697; April 18, 1794, Chapter 1750; February 25, 1795, Chapter 1802; April 4, 1805, P. L. 280. The right to issue bills of credit in the future was surrendered by the States by the Constitution of the United States, Article I, Section 10.

CHAPTER CCXC.

AN ACT FOR LAYING A DUTY ON NEGROES IMPORTED INTO THIS PROVINCE.

We the representatives of the freemen of the province of Pennsylvania desire that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That for every negro which shall be imported, landed or brought into this province at any time after the five-and-twentieth day of the month called March, in the year of our Lord one thousand seven hundred and twenty-six, and before the five-and-twentieth day of the said [month] which will be in the year of our Lord one thousand seven hundred and twenty-nine, other than such negroes as are actually shipped for sailors and

shall continue in the service of the vessel they were brought in and not to be exposed to sale in this province, and other than such negroes as shall be brought or sent into this province upon their immediate business and not for sale, there shall be paid for the uses hereafter mentioned the sum of five pounds lawful money of America.

And that all masters of vessels and others who shall within the time aforesaid bring into this province by land or water any negroes shall forthwith make entry, and give or cause to be given upon oath or affirmation to the person hereinafter appointed to collect the said duty a true and just account of all the negroes so imported or brought in and to whom they respectively belong, which the said collector shall duly enter in a book for that purpose, and thereupon shall grant a permit gratis for landing of them.

And that every such importer, owner or claimer of such negroes shall immediately upon landing or bringing in of them pay down the said duty in ready money or otherwise become bound to the provincial treasurer for the time being with one or more sufficient sureties, or procure two other sufficient persons to be bound to the treasurer, to answer and pay the said duty hereby imposed upon such negroes within six months next after the date of the said obligation, for which the collector shall receive of the party one shilling and six pence and no more.

And if any of the said negroes shall be imported, landed or brought in within the time aforesaid without making entry and obtaining a permit as aforesaid or without paying or giving security for payment of the said duty in manner aforesaid, that then all the negroes so imported, landed or brought in (or the value of them if the [sic] cannot be found) shall be forfeited; one moiety (after the said duty and all charges of seizure and prosecution are deducted) shall go to the governor for the support of government and the other half (after the said deduction) to the said collector or such other person as will sue for the same in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed.

And that the said collector of the said duty arising by this act shall have full power and authority by virtue hereof without any further or other warrant to enter on board any ship or vessel and into any house or place whatsoever where he shall suspect any of the said negroes to be concealed, and make searches and do all other matters and things which may tend to secure the true payment of the said duty and the due and orderly collection thereof, and in case of opposition or refusal the said collector, with the assistance of the sheriff, water-bailiff, constable or other officer, who without any further or other warrant are enabled and required under the penalty of five pounds (for every neglect or refusal in that behalf to be recovered as aforesaid) to be aiding and assisting to the said collector, to seize the said negroes which shall be concealed or endeavored so to be as aforesaid; and for that end to break open doors and other things and to do and perform all other act and acts which by this act is required to be done for collecting, receiving and recovering of the said duty and the penalties and forfeitures herein mentioned, or for making seizures of negroes landed or brought in without making entries and paying or securing the said duty in as full and ample manner to all intents as any of the collectors or officers of the King's customs may or can do by the laws of Great Britain.

[Section II.] And be it further enacted, That all masters of vessels and others trading in the river Delaware and coming into any port or place of this province having negroes on board which by this act are liable to pay the said duty are hereby required to comply with the directions of this act as if such vessel came from sea directly, and that all persons obliged by this act to pay the said duty shall apply to the said collector without any notice given or request made by him for their so doing.

[Section III.] And be it further enacted by the authority aforesaid, That in case any vessel shall arrive at any port, member, creek or landing place in this province with any negro or negroes on board and there remain the space of twenty-four hours without making entry under pretense of going to some other port or any, other pretense whatsoever, the master or owner of the said vessel shall give security to the said collector

that he shall not land any of the said negroes without entry made and permit obtained from the said collector under the penalty of seizure and forfeiture, to be recovered as aforesaid.

Provided always, That if any of the said negroes for which the said duty is paid or secured as aforesaid shall within the space of six months after importation be exported (or carried out to sea), then and in such case three-fourths of the said duties hereby imposed shall be abated for such of them as shall be exported, and on payment of the remaining one-fourth part, the security given shall be delivered up and discharged, and the officer shall and may deduct out of such repayment five shillings per head for his care and trouble therein.

Provided also, That all such negroes for which such deduction shall be made shall actually and *bona fide* be forthwith shipped off or sent out of this province, so as not to return again without complying with this act, under the penalty of seizure and forfeiture as aforesaid.

Provided also, That if any person or persons shall during the continuance of this act transport him or themselves with their families and negroes in order to settle in this province, and shall upon oath or affirmation declare before the said collector, who is hereby empowered to administer the same, that such negroes so brought in are for their own service and not for sale, he or they shall not be liable to pay the said duty for such negroes, but shall forthwith give security to the said collector (which he is hereby empowered and required to take) by a bond of the full value of such negroes conditioned for the payment of the rates aforesaid in case such negroes shall be sold or the property of them directly or indirectly altered within the space of sixteen months after the date of such bond.

[Section IV.] And be it further enacted, That Charles Read, of Philadelphia, merchant, shall be and is hereby appointed the present collector of the said duty hereby imposed and receiver of all fines, forfeitures and penalties hereinbefore appointed to be set, imposed and levied by virtue of this act, which the said collector is hereby empowered to demand, collect, receive and recover of and from all persons importing, landing or bringing in any negroes during the continuance of

this act, and shall from time to time take all bonds required to be given as aforesaid.

And the said collector shall keep fair and true accounts in writing of all such transactions relating to the premises, which he shall from time to time submit to the view and inspection of the provincial treasurer and lay the same before the assembly when required.

And once in six weeks or oftener if required during the continuance of this act pay into the said treasurer's hands all such sums of money as he shall receive by virtue of this act, and shall deduct out of the same for his own use five per cent for all sums so by him paid; and shall further be allowed by the said treasurer in the final adjusting of his accounts all reasonable charges by him expended in the prosecution of the said seizures and recovery of any of the said fines, forfeitures and penalties in pursuance of this act.

Provided always, That the said collector before he enters upon the execution of his office shall be sworn or attested before some justice of the peace, and shall, with one or more sufficient sureties, become bound in an obligation of five hundred pounds to the treasurer conditioned for the due and faithful execution of his said office.

And in case of the death or removal of the said collector the provincial treasurer for the time being shall appoint another in his stead to collect the said duty during the continuance of this act.

[Section V.] And be it further enacted by the authority aforesaid, That if any person or persons shall at any time be sued or prosecuted for anything done in pursuance of this act such person or persons so sued or prosecuted may plead the general issue and give this act and the special matter in evidence for their excuse or justification; and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer a discontinuance, or if a verdict pass against him in such action, suit or information, the defendant shall have treble costs, as in any cases where costs by law are given to defendants.

Passed March 5, 1725-26. Expired before being considered by the Crown. See the Acts of Assembly passed March 5, 1725-26, Chapter 292; May 10, 1729, Chapter 304.

CHAPTER CCXCI.

AN ACT FOR THE BETTER ENABLING OF BERNHARD VANLEER, ARENT HASSERT, MICHAEL SMITHS, WILLIAM SELIGER, ARNOLT BAMBERGER, WILLIAM HILLIGART AND ULRICK HAGEMAN TO TRADE AND HOLD LANDS IN THIS PROVINCE.

Whereas by the royal charter of the late King Charles the Second to William Penn, Esquire, late proprietary and governor of the province of Pennsylvania, license is granted to all persons not specially forbidden to transport themselves and families into the said province in such shipping as by the laws of the kingdom of England they ought to use, paying the customs therefor due, and here to settle themselves, dwell and inhabit, and plant for the public and their own private advantage, with license to purchase and hold lands in fee-simple or otherwise of the said proprietary and his heirs, with full license to all persons who shall from time to time repair hither with a purpose to inhabit or trade with the natives of this country, to load, freight and transport all and singular their goods, wares and merchandises not prohibited by the laws and statutes of England into any ports whatsoever of the said late King, his heirs and successors, according to the laws made or to be made within the said kingdom of England.

Saving always to the said late King, his heirs and successors, the legal impositions, customs or other duties due or to become due by any law or statute for the said wares or merchandises as by the said royal charter (amongst other things) may more fully appear.

And whereas the said Bernhard Vanleer, Arent Hassert, Michael Smiths, William Seliger, Arnolt Bamberger, William Hilligart and Ulrick Hageman were born under the allegiance of the Emperor of Germany, now in amity with the King of Great Britain, and being of the Protestant or reformed religion and desirous to come under the power and protection of His British Majesty, have transported themselves with their

effects into this province, and duly considering the happiness of being governed by a constitution agreeable to the laws, rights and liberties of England, and desiring to be made partakers of those immunities belonging to the natural-born subjects of this province and be more effectually secured of those privileges and advantages granted by his said late Royal Majesty King Charles the Second to persons coming into this province to settle and inhabit, they the said Bernhard Vanleer, Arent Hassert, Michael Smiths, William Seliger, Arnolt Bamberger, William Hilligart and Ulrick Hageman, having on the sixth day of December, one thousand seven hundred and twenty-five, in the general quarter-sessions of the peace of our Lord the King that now is, held at Philadelphia in the said province, taken and subscribed the several qualifications required by law to be taken and subscribed by His Majesty's liege subjects, obtained leave to bring in this bill to the present assembly. Now forasmuch as the increase of people in these foreign plantations is an encouragement to the English trade and a means of advancing the wealth and strength of the English Empire:

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said Bernhard Vanleer, Arent Hassert, Michael Smiths, William Seliger, Arnolt Bamberger, William Hilligart and Ulrick Hageman are hereby declared and shall at all times hereafter be esteemed and taken to all intents and purposes to be and to have been since their first arrival in this province free and fully able and capable to trade, traffic, load, freight and transport all and all manner of goods, wares and merchandises not by law prohibited to be imported or exported as if they the said Bernhard Vanleer, Arent Hassert, Michael Smiths, William Seliger, Arnolt Bamberger, William Hilligart and Ulrick Hageman had been the natural liege people and subjects of the King of Great Britain, born in this province of Pennsylvania.

[Section II.] And be it further enacted by the authority aforesaid, That the said Bernhard Vanleer, Arent Hassert, Michael Smiths, William Seliger, Arnolt Bamberger, William Hilligart and Ulrick Hageman shall and are hereby enabled and adjudged able to all intents, constructions and purposes whatsoever as well to demand, take, have, retain and enjoy any privileges and immunities belonging to His Majesty's liege people and natural subjects of this province, as also to have and enjoy all lands and tenements or other hereditaments by way of purchase or gift of any person or persons whatsoever. and also to prosecute, pursue, maintain, avow and justify all and all manner of actions, suits and causes and all other things to do as lawfully, freely and fully as if they the said Bernhard Vanleer, Arent Hassert, Michael Smiths, William Seliger, Arnolt Bamberger, William Hilligart and Ulrick Hageman had been and were born natural subjects of this province or as any other person or persons born within this province may lawfully in anywise do, any law, custom or usage to the contrary thereof in anywise notwithstanding.

Passed March 5, 1725-26. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I.

CHAPTER CCXCII.

AN ACT FOR THE BETTER REGULATING OF NEGROES IN THIS PROVINCE.

Whereas it too often happens that negroes commit felonies and other heinous crimes which by the laws of this province are punishable by death, but the loss in such case falling wholly on the owner is so great a hardship that sometimes may induce him to conceal such crimes or to convey his negro to some other place and so suffer him to escape justice, to the ill example of others to commit the like offenses:

For remedy whereof:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any negro owned by any of the inhabitants of this province shall hereafter be convicted of any capital crime for which he or she shall suffer death, the justices with the freeholders before whom he or she shall be convicted shall immediately upon such conviction value such negro, which value by them set shall be allowed and paid to the owner out of the duties, fines and penalties arising from this and one other act laying a duty on negroes imported into this province and no otherways, and the provincial treasurer is hereby empowered and required to pay the same by order under the said justices' hands, which said order they are hereby required to make, seal and deliver to the owner of any negro executed as abovesaid.

[Section II.] And be it enacted by the authority aforesaid, That from and after the twenty-fourth day of June, one thousand seven hundred and twenty-six, for every negro imported or brought into this province from the West Indies or any other place who shall or may have been transported or sent away for being principal or accessory to any felony or grand or petty larceny or other misdemeanors there shall be paid by the owner, importer or possessor the sum of five pounds over and above the five pounds duty laid by an act of assembly of this province passed this sessions, which said duty shall be paid to the officer appointed to collect and receive the said duty imposed by the said-recited act. And all masters of vessels or others bringing into this province any such negroes shall within the space of twenty-four hours make entry, and upon oath or affirmation give a true account to the said collector of the number of negroes by him or them imported or brought in and to whom they respectively belong, whereupon the said officer shall forthwith give notice thereof to any one or more of the justices of the peace for the city or county where such negroes are or shall be imported, which justice or justices are hereby empowered and required immediately by warrant or

otherwise to call before him or them the said master, owner or other person or persons importing such negroes as aforesaid, and to examine him or them upon oath or affirmation in order to discover which or how many of the said negroes are liable to the said duty of ten pounds per head, and then the said justice or justices shall deliver or cause to be delivered to the said collector a certificate or list of the number of negroes so imported which shall appear to them or as they shall judge to be within the meaning of this act, and thereupon the said officer shall proceed to collect and recover the said duty or take bond for the same; and all masters of vessels and others bringing into this province any such negroes, as likewise the said collector and all other persons, shall and are hereby required to observe and comply with the directions of the said act, in and about the execution of this part of this act, and under the same exceptions, restrictions and penalties as is appointed and set down in and by the said-recited act, excepting where the same is hereby expressly altered or supplied.

And whereas 'tis found by experience that free negroes are an idle, slothful people and often prove burdensome to the neighborhood and afford ill examples to other negroes:

[Section III.] Therefore be it enacted by the authority aforesaid, That if any master or mistress shall discharge or set free any negro, he or she shall enter into recognizance at the respective county court with sufficient sureties in the sum of thirty pounds to secure and indemnify the city, township or county where he resides from any charge or incumbrance they may bring upon the same in case such negro by sickness or otherwise be rendered incapable to support him or herself, but until such recognizance be given such negroes shall not be deemed free.

And if any negro be made free by the will or testament of any person deceased, then the executor or executors of the deceased or some other person shall enter into the like recognizance as above immediately upon proving the said will, or otherwise the said negro shall not be deemed free.

[Section IV.] And be it further enacted by the authority aforesaid, That if any free negro fit and able to work shall

neglect so to do and loiter and misspend his or her time or wander from place [to place], any two magistrates next adjoining are hereby empowered and required to bind out to service such negro from year to year as to them shall seem meet.

And if any negro be set free under the age of twenty-one years, or where there be any children of free negroes, it shall and may be lawful for the overseers of the poor and they are hereby ordered, with the assent of two or more justices of the peace, to bind out to service such negro or negroes, a man child until he comes to the age of twenty-four years, and a woman child to the age of twenty-one.

[Section V.] And be it further enacted by the authority aforesaid, That if any free negro or mulatto shall harbor or entertain any negro, Indian or mulatto slave or servant in his or her house without the leave and consent of their respective master or mistress, he or she shall forfeit and pay the sum of five shillings for the first hour and one shilling for every hour afterwards they shall be so harbored or entertained.

And if any free negro or mulatto shall barter, trade or any ways deal with any negro or other slave without license had as abovesaid, he or she shall make restitution to the party grieved and also be publicly whipped not exceeding twenty-one lashes.

[Section VI.] And be it further enacted by the authority aforesaid, That if any free negro or mulatto shall refuse or be unable to pay his or her fine or forfeiture as aforesaid, it shall and may be lawful to and for the justice before whom such matter is tried to order satisfaction by servitude.

[Section VII.] And be it further enacted by the authority aforesaid, That no minister, pastor or magistrate or other person whatsoever who according to the laws of this province usually [join] people in marriage shall upon any pretense whatsoever join in marriage any negro with any white person on the penalty of one hundred pounds.

[Section VIII.] And be it further enacted by the authority aforesaid, That if any white man or woman shall cohabit or dwell with any negro under pretense of being married, such white man or woman shall forfeit and pay the sum of thirty

pounds or be sold for a servant not exceeding seven years by the justices of the respective county court, and the child or children of such white man or woman shall be put out to service as above directed until they come to the age of thirty-one years; and if any free negro man or woman shall intermarry with a white woman or man, such negro shall become slave during life, to be sold by order of the justices of the quarter-sessions of the respective county; and if any free negro man or woman shall commit fornication or adultery with any white man or woman, such negro or negroes shall be sold servant for seven years as abovesaid, and the white man or woman shall be punished as the law directs in cases of adultery or fornication.

And whereas a good regulation and suitable management of negroes is very much conducive to the safety and peace as well as advantage of those countries which are possessed of any number of them.

[Section IX.] Therefore be it enacted by the authority aforesaid, That if any negro shall at any time be found tippling or drinking in or near any house or shop where strong liquors are sold, or be found out of or absent from his master or mistress's house after nine o'clock at night without license from his said master or mistress, [he] shall be whipped on his or her bare back at his master's or owner's own cost, not exceeding ten lashes, by order of any justice of the peace.

[Section X.] And be it further enacted by the authority aforesaid, That whoever shall take up any negro above ten miles from his or her master or mistress's habitation who hath not leave in writing from his or her said master or mistress or are not known to be on their service, he, she or they so taken up shall be whipped by order of any justice of the peace on the bare back at the owner's charge not exceeding ten lashes, and the taker-up shall have for his reward five shillings, with reasonable charge for carrying him or them home, paid by the master or mistress of the said negro.

[Section XI.] And be it enacted by the authority aforesaid, That no master or mistress of any negro shall hereafter for

any reward, sum or sums of money stipulated and agreed upon betwixt them or upon any other pretense whatsoever permit or suffer his or their negroes to ramble about under pretense of getting work, give liberty to their negroes to seek their own employ and so go to work at their own wills, under the penalty of twenty shillings for every such offense.

[Section XII.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever shall employ or knowingly harbor, conceal or entertain other people's slaves at their houses, out-houses or plantations without the master or owner's consent, excepting in distress of weather or other extraordinary occasion, under the penalty of thirty shillings for every twenty-four hours he or she shall entertain or harbor him or them as aforesaid.

[Section XIII.] And be it further enacted by the authority aforesaid, That all the fines, forfeitures and penalties arising by this act shall go, one-half thereof for and towards the paying for negroes executed for capital offenses according to the direction of this act, to be paid into the hands of the provincial treasurer, and the other half thereof to the prosecutor; and shall be recovered in manner following, viz.: all those under forty shillings as other debts of the like value are recovered, and those above forty shillings to be recovered in any court of record in this province by bill, plaint or information, where no more than one imparlance shall be allowed.

Passed March 5, 1725-26. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed May 10, 1729, Chapter 304; (repealed, temporarily) March 14, 1761, Chapter 467; April 22, 1761, Chapter 468; February 20, 1768, Chapter 572; February 26, 1773, Chapter 681; September 7, 1778, Chapter 810; (repealed, finally) March 1, 1780, Chapter 881.

CHAPTER CCXCIII.

**AN ACT FOR THE BETTER REGULATING THE RETAILERS OF LIQUORS
NEAR THE IRON WORKS AND ELSEWHERE.**

Whereas the selling of rum and other strong liquors near the furnaces lately erected for running and melting of iron ore have [sic] already proved very prejudicial and injurious to the undertakers:

Therefore for the preventing of which and encouraging and promoting such generous undertakings, we pray that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons whatsoever from and after the publication of this act shall within the distance of two miles to any furnace now erected or hereafter to be erected within this province keep a public house, sell by permit or otherwise dispose of any rum, wine, brandy or other liquors, except he or they shall be specially recommended for license or permit by a majority of the owners of the said furnace or works near which he or they are desirous of keeping a public house or selling by permit rum, wine, brandy or other liquors under the penalty of forty shillings for every such offense, being thereof convicted by his or their own confession or by the oath or affirmation of one or more credible witnesses before the next justice of the peace of the respective county where such offense is committed, to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the said justice before whom such conviction is made, which warrant such justice hath hereby power to make, seal and grant; and where distress cannot be found on the offender's goods, it shall and may be lawful to and for the said justice of the peace aforesaid

to commit such offender or offenders to prison, there to remain without bail or mainprise for the space of twenty days.

[Section II.] And be it enacted by the authority aforesaid, That no person or persons who is or may be so recommended shall be licensed to keep ordinaries or public houses to sell or vend rum, wine, brandy or other liquors near the said works before he or they have entered into recognizance before the justices of the respective courts at their quarterly sessions with two sufficient sureties in the sum of twenty pounds for his or their keeping good orders and due observance and compliance with this act; and that no permit shall be granted by the collector of excise or any other person or persons to any retailer whatsoever in that or any other part of this province for drawing or selling rum and other spirits or any of the liquors aforesaid before he or they enter into recognizance, with sureties in manner aforesaid, for observance of the act of excise passed in the tenth year of His Majesty's reign.

[Section III.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever who is or shall be allowed to sell beer and cider by the nine shilling licenses according to an act [of assembly] of the eighth of King George, entitled "An act for the encouraging the making of good beer," &c., shall directly or indirectly sell, offer or dispose of any rum, wine, brandy or other distilled liquors, mixed or unmixed, in or about their houses or elsewhere under the penalty of forty shillings for every such offense, the offender being convicted thereof before any justice of the peace in manner aforesaid; and if the collector of the excise for the time being shall grant a permit to any person or persons so licensed to sell beer as abovesaid, it shall be deemed an official misbehavior in him and a forfeiture of his bond given the provincial treasurer by direction of the act of excise, anything in the said act or in any other law contained to the contrary thereof in anywise notwithstanding.

[Section IV.] And be it enacted by the authority aforesaid, That all the fines, forfeitures and penalties mentioned in this act shall go, one-half thereof to the governor for the time be-

ing towards support of government, and the other half thereof to the prosecutor.

Provided always, That this act or anything therein contained shall not extend to annihilate or make void the acts of assembly of this province about licensing ordinaries and laying excise or any part thereof, save only what is hereby expressly altered and supplied, and that this act continue in force for two years after its publication, and from thence to the end of the next sessions of assembly and no longer.

Passed March 5, 1725-26. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed May 6, 1727, Chapter 294; February 20, 1735-36, Chapter 344.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1726, and continued by adjournments until the twenty-fifth day of August, 1727, the following acts were passed:

CHAPTER CCXCIV.

AN ACT FOR THE MORE EFFECTUAL ENCOURAGING THE RAISING OF GOOD HEMP AND FOR CONTINUING AN EXCISE ON ALL WINE, RUM, BRANDY AND OTHER SPIRITS RETAILED WITHIN THIS PROVINCE.

Whereas by an act of assembly of this province passed in the eleventh year of his present Majesty's reign, entitled "An act for continuing the bounty upon hemp,"¹ it is ordained, established and enacted that there shall be paid out of the public revenue of this province as an encouragement or bounty for all good, sound, well-dressed, merchantable hemp, suitable and fit for exportation, that shall grow and be raised within the same, by any person or persons whatsoever, from and after the twenty-second day of May next after the publication of the said act until the full end and expiration of five years thence next ensuing, one penny for every pound of such merchantable hemp raised as aforesaid.

And whereas the good intention and design of the said act hath in a great measure been frustrated and eluded by such of the inhabitants of this province who have hitherto raised hemp and received the bounty as aforesaid without having water-rotted the same, whereby the said hemp hath by experience been found to be of little or no value, by which a considerable damage hath hitherto accrued to this province in general by paying the said bounty upon the said hemp not water-rotted as aforesaid.

[Section I.] Be it therefore enacted by the Honorable

¹ Passed May 22, 1722, Chapter 257.

Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said clause whereby a bounty of one penny per pound is given upon hemp raised as aforesaid shall be and is hereby repealed, rendered void and of no force in law from and after the fourteenth day of this instant May, anything in the said act for continuing the bounty upon hemp or any other act of this province to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That there shall be paid out of the public revenue of this province by the officer hereinafter appointed to put this act in execution (in lieu of the said bounty by the aforesaid clause granted and hereby repealed as aforesaid, and as a further encouragement and bounty for all good, sound, well-dressed, merchantable hemp that is or shall be raised, water-rotted and dried, without the help of fire, by any person or persons whatsoever within this province from and after the fourteenth day of May in this present year, one thousand seven hundred and twenty-seven, until the fourteenth day of May, which will be in the year of our Lord one thousand seven hundred and thirty) one penny half-penny for every pound of such merchantable hemp fit for exportation, raised, water-rotted and dried as aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That Charles Read, of the city of Philadelphia, merchant, shall be and is hereby appointed the officer to put this act in execution, who shall before he enters upon his said office be qualified faithfully to perform the same without favor or regard to any person whatsoever.

[Section IV.] And be it further enacted, That the said officer shall not pay any bounty upon hemp by this act granted or intended to be granted unless in his judgment, upon diligent search and inspection, the said hemp shall appear to be sound, merchantable and fit for exportation.

Provided always, That if any dispute shall happen to arise between the said officer and possessor of such hemp concerning

the soundness and goodness thereof, application being made by the said officer or owner to any magistrate of the city or county of Philadelphia, the said magistrate shall issue his warrant to two indifferent, judicious persons of skill and integrity to view, examine and search the said hemp, and to make report forthwith according as they find the same, and the said magistrate is hereby empowered and required to give judgment accordingly, the charges of which view and search shall be determined by the said magistrate who issued said warrant, but not exceeding five shillings for any quantity under five hundred weight, and not exceeding ten shillings for any quantity above, which sum and other charges shall be paid by the possessor or owner of said hemp.

[Section V.] And be it further enacted by the authority aforesaid, That the officer by this act appointed is empowered and shall, before he pays the bounty upon hemp by this act granted as aforesaid, administer to all persons demanding the said bounty an oath or affirmation, that the said hemp is of the growth of this province, and that the same was water-rotted and dried without the help of any fire, according to the true intent and meaning of this present act; and that the same hath not, nor any part thereof has, ever before been tendered to the said officer or any bounty paid or allowed for the same.

[Section VI.] And be it further enacted, That all such clauses, matters and things in the aforesaid act for continuing the bounty upon hemp contained, which are not herein and hereby repealed, altered or amended, shall be and remain in full force and virtue as if this act had never been made, anything in the same contained to the contrary notwithstanding.

And whereas by an act of assembly of this province, made in the tenth year of his present Majesty's reign, entitled "An act laying an excise on all wine, rum, brandy and other spirits retailed in this province,"² an excise of six pence per gallon is laid on all the said liquors retailed as aforesaid; but forasmuch as the said act expires the fourteenth day of May, in the year of our Lord one thousand seven hundred and twenty-seven, to

² Passed December 12, 1723, Chapter 276.

the end, therefore, that the provisions and purposes in the said act contained may not become void by the expiration of the same as aforesaid:

[Section VII.] Be it enacted by the authority aforesaid, That the said act, together with all such clauses, matters and things therein contained which are not by this present act altered or amended, shall be and is hereby continued in full force and effect in law after the said fourteenth day of May, one thousand seven hundred and twenty-seven, till the fourteenth day of May, which will be in the year of our Lord one thousand seven hundred and thirty, and no longer.

[Section VIII.] And be it further enacted by the authority aforesaid, That after the said fourteenth day of May in the year one thousand seven hundred and twenty-seven no person or persons within this province shall, during the continuance of this act, retail less than one quart of rum, wine, brandy or other spirits, to be delivered at one time and to one person, unless such person or persons shall be regularly recommended to the governor for the time being and by him licensed according to the direction of an act of assembly of this province in that case made and provided; and if any person or persons shall presume during the continuance of this act to retail within this province less than one quart of wine, rum, brandy or other spirits, to be delivered at one time and to one person, without being legally recommended and licensed as aforesaid, he, she or they so offending shall forfeit and pay the sum of five pounds over and above the duties for all such liquors retailed by them as aforesaid, or be committed to the workhouse or prison of the respective county where the offense was committed, there to be kept at hard labor for the space of five months, anything in the said act laying an excise on all wine, rum, brandy and other spirits retailed in this province [or any other act] to the contrary notwithstanding.

And whereas by another act of assembly of this province, entitled "An act for the better regulating the retailers of liquors near the iron works and elsewhere,"³ it is enacted by a clause in the said act contained that no person or persons shall be

³ Passed March 25, 1725-26, Chapter 293.

licensed to keep ordinaries or public houses to sell or vend rum, wine, brandy or other liquors near the said works before he or they have entered into recognizance before the justices of the respective courts at their quarterly sessions with two sufficient sureties in a sum of twenty pounds for his or their keeping good orders and due observance and compliance with the said act, and that no permit shall be granted by the collector of excise or any other person or persons to any retailer whatsoever in that or any other part of this province for drawing or selling rum and other spirits or any the liquors aforesaid, before he or they enter into recognizance with sureties in manner aforesaid for observance of the act of excise passed in the tenth year of His Majesty's reign.

And whereas the said clause has not been found sufficient to answer the ends and purposes intended [by] the said act:

[Section IX.] Be it enacted by the authority aforesaid, That any one magistrate within this province may and is hereby empowered and required to take a recognizance with sureties, as in the said act is directed, of any person or persons applying for a permit, which recognizance, being returned into the next court of quarter-sessions respectively, shall be of equal force and validity in law as if the said recognizance had actually been taken in the quarter-sessions according to the direction of the last-recited act. For which recognizance there shall be paid one shilling and six pence, and to the clerk of the peace for filing the same six pence and no more.

[Section X.] And be it further enacted by the authority aforesaid, That all other matters and things in the last-recited act contained which are not herein and hereby altered or amended shall be and remain in full force and virtue in law during the continuance of this act and no longer, anything in the said last-recited act or in any other law of this province contained to the contrary notwithstanding.

Passed May 6, 1727. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed March 20, 1724-25, Chapter 286. As to Sections I-VI, see Acts of Assembly passed Feb-

ruary 14, 1729-30, Chapter 316; January 10, 1731-32, Chapter 328. As to Sections VII and VIII, see Act of Assembly passed February 24, 1729-30, Chapter 313. As to Sections IX and X, see Act of Assembly passed February 20, 1735-36, Chapter 344.

CHAPTER CCXCV.

AN ACT MORE EFFECTUALLY TO PREVENT UNFAIR PRACTICES IN THE PACKING OF BEEF AND PORK FOR EXPORTATION.

Whereas an act was passed in this province in the twelfth year of the reign of the late King William the Third, entitled "An act for the ascertaining the dimensions of cask and for the true packing of meat for transportation."¹ And whereas the frauds and abuses provided against and intended to be prevented by the said act relating to the package of beef and pork and dimensions of cask are still complained of:

For the preventing whereof for the time to come:

[Section 1.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all tight cask made in this province for beef and pork for exportation shall be made of good, sound, well-seasoned white oak timber, and shall contain as follows, viz.: the barrel thirty-one gallons and a half, wine measure, and the half barrel, sixteen gallons; and every cooper residing or hereafter to reside within this province shall, each one for himself, provide and have a distinguishable brand-mark, and shall therewith brand each and every tight barrel and half barrel he shall make for containing of beef or pork for exportation; but before any such cooper shall brand any barrel or half barrel as aforesaid, he shall cause such his brand-mark, together with his name and place of abode, to be entered with the officer hereafter appointed by this act, who is hereby required to enter the same in a book provided and kept by him for that purpose,

¹ Passed November 27, 1700, Chapter 80.

for entering of which the officer shall have one shilling each and no more; and every cooper offending in all or any of the premises on due proof made shall forfeit and pay the sum of ten shillings for every such offense.

[Section II.] And be it enacted by the authority aforesaid, That all beef and pork designed for exportation from and after the twentieth day of September, one thousand seven hundred and twenty-seven, shall be sound and merchantable meat, well packed and secured with salt and pickle, and shall not have more than two heads of pork in one barrel nor more than one head in half a barrel.

[Section III.] And be it enacted by the authority aforesaid, That no merchant or person whatsoever shall lade or ship any beef or pork for exportation out of this province before he shall first submit the same to the view and examination of the officer or his deputy appointed by the direction of this act, who shall search the same by opening, unpacking and re-packing in order to judge of the soundness and true package of the meat, as well as the contents of the cask; and if the said officer or his deputy shall find the said beef or pork to be merchantable and the cask to contain, the barrel thirty-one gallons and a half, wine measure, and the half-barrel sixteen gallons, according to the direction of this act, he shall, after packing or re-packing and heading, brand every such barrel and half-barrel on the quarter with a provincial brand-mark, which the said officer shall have and provide for that purpose, sufficient to impress in a fair and distinguishable manner the arms of the province of Pennsylvania, as in the margin.

Provided always nevertheless, That if any dispute shall happen to arise between the said officer and possessor of such beef or pork concerning the soundness or package of the same or contents of the cask, application being made to one of the magistrates of the city or county where the said dispute arises, who shall issue his warrant to two indifferent judicious persons of skill and integrity to view and search the said beef or pork and make report forthwith according as they find the same; and the said magistrate is hereby empowered and required to give judgment accordingly; and in case the said beef or pork is

judged not fit to be exported, the said magistrate shall order it not to [be] exported under the penalty of forfeiture of all such beef or pork, and shall also award and order the owner or possessor of the said beef or pork to pay the said officer five shillings per cask for all such beef or pork as shall be adjudged not fit for exportation as aforesaid with reasonable charges; but in case the said beef or pork upon trial shall be found to be good and merchantable, according to the direction of this act, the charges of prosecution shall be paid by the officer.

[Section IV.] And be it enacted by the authority aforesaid, That the officer hereafter appointed or to be appointed or his deputy shall have and receive for the viewing, searching and packing or re-packing, heading and branding of every barrel of beef or pork one shilling and six pence and for every half-barrel one shilling and no more, to be paid, one-half by the buyer or shipper and the other half by the seller.

[Section V.] And be it enacted by the authority aforesaid, That the said officer or his deputies shall have full power and authority by virtue of this act and without any further or other warrant to enter on board any ship, sloop or vessel whatsoever lying or being in any port or place in this province, and into any house, store or places whatsoever within the province aforesaid, to search for and make discovery of any beef or pork shipped or intended to be shipped for exportation, and if the owner or possessor or their servants or others shall deny him or them entrance, or if the said officer or his deputies shall be anyways molested in making such discovery as aforesaid, or if such merchant or owner shall refuse to permit the said officer or his deputies to view and examine any beef or pork or not permit him or them to brand the same if merchantable according to the direction of this act, every such person so offending shall forfeit and pay the sum of ten pounds; or shall ship off any cask or casks of beef or pork not branded with the provincial brand-mark aforesaid, every such person so offending shall forfeit and pay the sum of ten shillings for every cask so shipped.

[Section VI.] And be it enacted by the authority aforesaid, That Nathaniel Griffiths, of Philadelphia, cooper, shall be and

is hereby appointed the said officer for viewing, searching, packing or re-packing and branding as aforesaid all beef and pork intended for exportation according to the direction of this present act; and if the said Nathaniel Griffiths or other person hereafter appointed to be the officer aforesaid shall by any accident be rendered incapable or neglect to execute the said office or shall happen to die before or after the time of putting this present act in execution, then and so often and from time to time it shall and may be lawful to and for the mayor, together with any two aldermen of the city of Philadelphia, to supply his place by some other fit and capable person, who shall thereupon be the officer for putting this act in execution until the assembly appoint another.

But before the said Nathaniel Griffiths or any other person so to be appointed the officer aforesaid shall do anything in the execution of his office, he shall first make oath or affirmation before any justice of the peace of any county of this province faithfully and impartially to perform his duty and trust to the best of his capacity, according to the direction of this present act.

[Section VII.] And be it enacted by the authority aforesaid, That the said Nathaniel Griffiths or any other person appointed the officer aforesaid is hereby empowered to appoint deputies in the respective counties of this province (for whom he or they shall be accountable), which said deputies are hereby fully empowered to act as deputy officers for the viewing, searching, packing and branding of beef and pork in manner aforesaid in their respective counties to all intents and purposes as fully as the said Nathaniel Griffiths could do by virtue of this act.

[Section VIII.] And be it enacted by the authority aforesaid, That if any person or persons shall counterfeit the said provincial brand-mark or impress or brand the same on any cask of beef or pork, he, she or they, being thereof legally convicted, shall for the first offense forfeit and pay the sum of five pounds, for the second offense the sum of ten pounds, and for the third and every other such offense the offender shall be committed to gaol and sentenced to the pillory, there to stand the space of two hours, on a market-day in any city, borough

or town of the respective counties of this province where the fact was committed.

[Section IX.] And be it enacted by the authority aforesaid, That all and singular the fines, forfeitures and penalties in and by this act set and appointed shall be one-half to the governor for the support of government, and the other half thereof to the informer or him or them that will sue for the same; if under forty shillings, to be recovered as debts under forty shillings are usually recovered; if above forty shillings, to be sued for and recovered by bill, plaint or information in any court of record within this province, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed.

Passed August 18, 1727. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section 1, and the Acts of Assembly passed March 12, 1789, Chapter 1395; September 24, 1789, Chapter 1440; April 20, 1795, Chapter 1863; March 27, 1821, P. L. 133; April 2, 1822, P. L. 196; April 15, 1835, P. L. 384; March 31, 1836, P. L. 332; June 16, 1836, P. L. 810; March 25, 1850, P. L. 281; March 31, 1860, P. L. 382; (Section X, repealed by the Act of Assembly passed) March 31, 1860, P. L. 427; April 2, 1867, P. L. 657, and the Constitution of 1873, Article III, Section 27.

CHAPTER CCXCVI.

A SUPPLEMENTARY ACT TO THE ACT FOR ASCERTAINING THE NUMBER OF MEMBERS OF ASSEMBLY, AND TO REGULATE ELECTIONS.

Whereas by an act of assembly of this province passed in the fourth year of the late Queen Anne, entitled "An act to ascertain the number of members of assembly and to regulate elections,"¹ amongst other things it is enacted that every sheriff, or in his absence his under sheriff or such as he shall depute, or for want of such deputation the coroner or such as he shall appoint, or for want of such appointment any two of the free-

¹ Passed January 12, 1705-6, Chapter 137.

holders, who by the major part of the electors then and there present shall be nominated and appointed judges of the said elections, in the absence of the sheriff or coroner shall attend at the said elections and shall appoint such number of clerks for taking the poll or votes of the electors as the inspectors in the said act aftermentioned shall appoint.

And whereas by the said-recited act it doth not clearly appear what number of inspectors are to be nominated or chosen by the major part of the electors, nor are they laid under any oath or affirmation for the true discharge of the trust in them reposed by the said act, from whence some disputes have arisen to the delay of the said elections:

For remedy whereof:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That when the sheriff of every county of this province or his under-sheriff or such as he shall depute, or for want of such deputation the coroner or such other person or persons who by the before-recited act or any other law of this province are or shall be in the absence of the sheriff or coroner appointed to be judges of the said elections respectively, are ready to proceed according to the direction of the said act, the freemen of the respective counties then and there present and having right to be electors or the major part of them shall immediately preceding every such election of representatives nominate such substantial freeholders of the county where such election is to be for inspectors of the ensuing election, who at the time and place aforesaid shall be put up one by one by the sheriff or other judges of the said elections until eight of those freeholders so nominated shall be chosen for the county and city of Philadelphia, and fix for the said city of Philadelphia and the number four for the counties of Bucks and Chester respectively by a fair majority of the electors to be inspectors as aforesaid, having regard (as much as may be) in all elections for the respective counties of this province to choose such persons for

inspectors as, from their living in different quarters of the said counties, may have the most knowledge of the qualification or abilities of the electors.

And the said inspectors when chosen as aforesaid, before they shall proceed to act in receiving the poll or votes at the said elections, shall be qualified by oath or affirmation by the sheriff of the proper county or other judges of the elections, who are hereby empowered and required to administer the same, that they will duly attend the ensuing election during the continuance thereof, and will truly and faithfully assist the sheriff, coroner or other person who shall by virtue of the before-recited act officiate as judges of the said elections to prevent all frauds and deceits whatsoever of electors or others in the management and carrying on of the same, and in causing the poll or votes at such elections to be taken and cast up according to the direction of the said-recited act.

And the said inspectors are hereby authorized and required to administer to every elector or person who presents his ticket for electing representatives to serve in assembly an oath or affirmation in the words directed by the aforesaid act of the fourth of Queen [Anne], viz.:

That such elector is of twenty-one years of age and a freeholder for the county of and has fifty acres of land or more well seated, and twelve acres thereof or more cleared, or that he is otherways worth fifty pounds, money of this province, clear estate, and hath been resident therein for the space of two years, and that he has not been before polled at that election.

unless the qualification of such elector be generally well known or some one or more of the inspectors shall or will openly declare to the rest that they know such elector to be qualified as aforesaid, and the votes or tickets of such as offer to poll and refuse to take the said oath or affirmation shall be openly rejected; and the vote or ticket of every person who takes the said oath or affirmation shall be put into the box, and no ticket so received shall be suppressed.

Provided, That nothing herein contained shall be deemed or taken to disannul, alter or make void the said-recited act or

anything therein contained, but that every clause, article and sentence therein (except what is hereby altered or supplied) shall be and remain in full force and virtue.

Passed August 18, 1727. This Act of Assembly was repealed temporarily by the two Acts of Assembly passed May 19, 1739, Chapter 350, and February 3, 1742-43, Chapter 356, and was repealed finally by the Act of Assembly passed March 7, 1745-46, Chapter 364.

CHAPTER CCXCVII.

AN ACT FOR ESTABLISHING A FERRY FROM THE CITY OF PHILADELPHIA TO THE LANDING AT OR NEAR THE HOUSE OF WILLIAM COOPER, AND ANOTHER FROM OR NEAR THE CITY BOUNDS TO GLOUCESTER IN NEW JERSEY.

Whereas the late King Charles the Second by his letters patent under the great seal of England did (amongst other things) grant unto William Penn, Esquire, late proprietor and governor of this province, his heirs and assigns, the free and undisturbed use and continuance in and passage into and out of all and singular ports, harbors, bays, waters, rivers, isles and inlets belonging unto or leading to and from this country, and all the soil, rivers, bays and inlets situate and being within or belonging to the limits and bounds thereof.

By virtue of which grant the river Delaware (being the eastern boundary of this country) as well as all other the great rivers and streams of this province are become and ought to be and continue as common streets and highways for the free and undisturbed use of all such as have occasion to pass and repass in and over the same.

And whereas by an act of general assembly held at Philadelphia in the fourth year of his present Majesty's reign, entitled "An act for erecting a ferry to the landing at or near the land late of Daniel Cooper, and also to Gloucester in the western division of New Jersey,"¹ it was enacted that from the land-

¹ Passed February 22, 1717-18, Chapter 230.

ing-place at or near the High street in Philadelphia there should be a ferry for passengers and goods to the landing-place late of Daniel Cooper, and from the landing-place where Armstrong Smith then dwelt adjoining to the town-bounds of Philadelphia there should be a ferry to Gloucester for the like purposes.

Now forasmuch as it is of absolute necessity that the said ferries be continued for the accommodation of passage between these provinces, and to the intent that they may be well regulated and managed:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said ferry from the city of Philadelphia to William Cooper's shall be and is hereby vested and settled in the mayor and commonalty of the said city of Philadelphia and their successors for the space and term of seven years from and after the twenty-ninth day of September, one thousand seven hundred and twenty-seven, who shall at their own proper cost and charge make or cause to be made a sufficient slip or landing-place at the end of High street aforesaid and shall keep and maintain the same in good repair, and shall also provide and maintain a good, substantial boat or boats and capable ferry-men, who shall reside and dwell in the city of Philadelphia near the landing-place aforesaid, and shall duly and constantly attend the same as occasion may require.

And for the support of the said ferry:

[Section II.] Be it further enacted by the authority aforesaid, That the said mayor and commonalty and their successors by their deputies or officers to be appointed for that purpose under the city seal, shall receive and take for ferriage over the said river of all persons (the governor for the time being and his attendants only excepted) to or from the said landing near William Cooper's, the several rates following and no more: (That is to say)

For every single foot passenger, four pence; but if two or more together, three pence.

For every single horse and rider, one shilling; but if two or more together, nine pence.

For every single ox, cow or heifer, one shilling and three pence; but if two or more oxen, cows or heifers, each one shilling.

For every single hog, six pence; but if two or more together, each three pence halfpenny.

For every single sheep, three pence; but if two or more together, each two pence.

[Section III.] And be it further enacted by the authority aforesaid, That the said ferry from the landing place at or near Armstrong Smith's or such landing-place as the justices of the county of Philadelphia or any three of them for the time being shall appoint, adjoining or near to the town bounds of Philadelphia aforesaid, to Gloucester, is and shall be vested and settled for the aforesaid term of seven years, from the said twenty-ninth day of September, one thousand seven hundred and twenty-seven, in the said justices or any three of them and their successors for the time being, who are hereby empowered and required to demise, grant and to farm-let the said ferry from time to time during the term aforesaid to such capable ferryman as shall be willing to accept and take the same under such conditions and security and for such yearly rent as to them the said justices shall seem reasonable; and the said ferryman so accepting and taking the said ferry shall be under the care and regulation of the said justices from time to time, and shall be obliged to keep good and sufficient boat or boats for carrying men and horses, cattle and goods, and shall well and duly attend the service of the said ferry; and shall and may receive and take from all persons (excepting the governor for the time being and his attendants) for the ferriage or passage over to or from Gloucester aforesaid the respective rates or prices following, viz.:

For every single foot passenger, one shilling; but if two or more together, each nine pence.

For every single horse and rider, two shillings; but if two or more men and horses together, each one shilling and six pence.

For every single ox, cow or heifer, two shillings; but if two or more together, each one shilling and six pence.

For every single hog, one shilling; but if two or more together, each nine pence.

For every single sheep, one shilling; but if two or more together, each six pence.

And for the better regulation and greater certainty of passage in and by the said ferries, as well as to encourage those that keep them:

[Section IV.] It is further enacted by the authority aforesaid, That if any person or persons whatsoever shall presume at any time hereafter to accept, receive or take any grant or license of any other person or persons save of the mayor and commonalty of the city of Philadelphia aforesaid and the said justices of the county of Philadelphia respectively for keeping the said ferries or either of them; or if any person or persons shall under any pretense whatsoever presume to set up, employ or keep any boat, flat or canoe within the bounds of the city of Philadelphia or within two miles above or below the landing-place, to be fixed as aforesaid, for carrying of passengers, horses, cattle, hogs or sheep, for any higher wages or other reward whatsoever over the said river Delaware from this province to New Jersey aforesaid, he or they so offending shall forfeit their boats, flats and canoes so employed, and shall also forfeit and pay the sum of five pounds for every time they so offend, which shall be recovered and applied in manner hereafter mentioned.

Provided nevertheless, That it shall and may be lawful to and for the ferryman from Cooper's, upon the request of the owner or owners, to land or put on shore cattle or horses at the end of Vine street in Philadelphia, commonly called The Penny Pot-house.

[Section V.] And be it further enacted by the authority aforesaid, That the rents, issues and profits which shall and may accrue and arise from the said ferry to Cooper's shall be appropriated to such public uses as the mayor and commonalty of the said city of Philadelphia shall from time to time order and appoint; and the rents, issues and profits which shall

arise from the said ferry to Gloucester shall be appropriated to the service of the public workhouse now erected in the city of Philadelphia aforesaid, as the said justices shall order and direct.

[Section VI.] And be it further enacted, That all fines, forfeitures and penalties arising from this act shall be recovered in any court of record of this province, one-half whereof shall be to the use of the informer or prosecutor who shall sue for the same, and the other half thereof shall be appropriated as followeth: (That is to say) such fines, forfeitures and penalties as arise from the ferry to Cooper's to such public uses as the mayor and commonalty of the city of Philadelphia shall order and appoint; and such as arise from the ferry to Gloucester shall be paid to such person or persons as the said justices shall order and direct for the service of the public workhouse as aforesaid.

Passed August 18, 1727. Expired before being considered by the Crown for action. See the Act of Assembly passed May 30, 1780, Chapter 910.

CHAPTER CCXCVIII.

AN ACT FOR THE ESTABLISHING OF COURTS OF JUDICATURE IN THIS PROVINCE.

Whereas the late King Charles the Second by his royal charter and grant to William Penn, Esquire, of that tract of land called Pennsylvania, and for erecting the same into a province, did for himself, his heirs and successors, grant free, full and absolute power to the said William Penn and his heirs and to his and their deputies and lieutenants for the good and happy government of the said country, by and with the advice, assent and approbation of the freemen of the said country or the greater part of them or of their delegates or deputies in assembly, when and as often as need should require, to ordain, make and enact any laws whatsoever for the public state, peace

and safety of the said country or unto the private utility of particular persons according unto their best discretion, and likewise to do all and every thing and things which unto the complete establishment of justice, unto courts and tribunals, forms of judicature and manner of proceedings do belong; and by judges by the said William Penn, his heirs, their deputies and lieutenants, appointed to award process, hold pleas and determine in all the said courts and tribunals all actions, suits and causes whatsoever as well criminal as civil, personal, real and mixed: Provided the said laws so made and published be consonant to reason, and not repugnant or contrary, but as near as conveniently may be, agreeable to the laws, statutes and rights of the kingdom of England, saving and reserving to the said King Charles, his heirs and successors, the receiving, hearing and determining of the appeal and appeals of all or any person or persons touching any judgment to be there made or given.

And whereas by virtue and in pursuance of the said grant divers acts and ordinances have been made from time to time for the holding of courts of judicature and the administration of justice within this province, which by the increase of inhabitants and change of circumstances of the country seem necessary to be altered and amended:

[Section I.] Be it therefore enacted by the Honorable Patrick Gordon, Esquire, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be a court styled the general quarter-sessions of the peace and gaol delivery holden and kept four times in every year in each county of this province, viz.: At Philadelphia, for the county of Philadelphia, on the first second day of the week, called Monday, in the months called March, June, September and December; at Newtown, for the county of Bucks, on the eleventh day following (inclusive) in every of the same months; and at Chester, for the county of Chester, on the last third day of the week, called Tuesday, in the months called May, August, November and February.

And that there shall be a competent number of justices in every of the said counties nominated and authorized by the governor or lieutenant-governor for the time being by commission under the broad seal of this province, which said justices [or] any three of them shall and may hold the said general sessions of the peace and gaol delivery according to law and as fully and effectually as any justices of the peace, justices of assize and justices of oyer and terminer or of gaol delivery may or can do.

[Section II.] And be it further enacted by the authority aforesaid, That the said justices of the peace of the respective counties or any three of them may pursuant to their said commissions hold special and private sessions when and as often as occasion shall require, and that the said justices and every of them shall have full power and authority, in or out of sessions, to take all manner of recognizances and obligations as any justices of the peace of Great Britain may, can or usually do, all which said recognizances and obligations shall be made to the King and his successors, and all recognizances for the peace, behavior or for appearance which shall be taken by any of the said justices out of sessions shall be certified into the said general sessions of the peace to be holden next after the taking thereof, and every recognizance taken before any of them for suspicions of any manner of felony or other crime not triable in the said court of quarter-sessions of the peace and gaol delivery shall be certified before the justices of the supreme court of oyer and terminer at their next succeeding court to be holden next after the taking thereof without concealment, detaining or embezzling of the same. But in case any person or persons shall forfeit his or their recognizance of the peace, behavior or appearance for any cause whatsoever, then the justices of the said court of quarter-sessions shall make a record of every such default or cause of forfeiture and issue writs of *scire facias* and all such other process as shall be needful for the recovery of the said forfeitures, all which forfeitures shall be levied by the proper officer and paid into the provincial treasury towards support of government.

Provided always, That the said courts of general quarter-sessions of the peace may be kept and continued for the space

of three days in the counties of Philadelphia, Bucks and Chester respectively at any of the said times hereinbefore appointed for the holding and keeping the said courts and sessions in each of the said counties of Philadelphia, Bucks and Chester in manner aforesaid.

Provided also, That nothing herein contained shall deprive or abridge the mayor, recorder and aldermen of the city of Philadelphia of any powers, privileges, jurisdictions or franchises granted them by charter or the laws of this province.

And to the end that persons indicted or outlawed for felonies or other offenses in one county or town corporate, who dwell, remove or be received into another county or town corporate, may be brought to justice:

[Section III.] Be it further enacted, That the said justices or any of them shall and may direct their writs or precepts under the seal of the proper county to which they belong to all or any of the sheriffs or other officers of the said counties or town corporate within this province where need shall be to take such persons indicted or outlawed, and that it shall and may be lawful to and for the said justices and every of them to issue forth subpoenas and other warrants under their respective hands and seals into any county or place of this province for summoning or bringing any person or persons to give evidence in and upon any matter or cause whatsoever now or hereafter examinable or in anywise triable by or before them or any of them, under such pains and penalties as subpoenas or warrants of that kind usually are or ought by law to be granted or awarded.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall find him or themselves aggrieved with the judgment of any of the said courts of general quarter-sessions of the peace and gaol delivery or any other courts of record within this province, it shall and may be lawful to and for the party or parties so aggrieved to have his or their writ or writs of error, which shall be granted them of course in manner as other writs of error are to be granted, and made returnable to the said supreme court of this province.

Provided always, That when any writ or writs of error shall be granted upon any judgment given or to be given for the said city of Philadelphia, the mayor, recorder and aldermen of the said city of Philadelphia and their successors or any of them shall not be compelled upon any of the said writs or any other writ or writs directed to them or any of them to remove, send or certify unto the said supreme court or elsewhere any of the indictments or presentments taken or to be taken before them or the record of the judgments and proceedings upon any such judgments or presentments, but only the tenor or transcript of the said record under their common seal. And after such judgments are reversed or affirmed in the said supreme court it shall and may be lawful for the mayor or recorder and aldermen and their successors to proceed to execution or otherwise as to justice shall appertain, according to law.

[Section V.] And be it further enacted by the authority aforesaid, That there shall be holden and kept at Philadelphia a court of record twice in every year: (That is to say) on the twenty-fourth day of September and the tenth day of the month called April, if the same days or either of them do not happen to be the Firstday of the week, and in such case the said court shall be held on the next day following, which said court shall be called and styled "The Supreme Court of Pennsylvania," and that there shall be three persons of known integrity and ability commissioned by the governor or his lieutenant for the time being by several distinct patents or commissions under the great seal of this province to be judges of the said courts, one of whom shall be distinguished in his commission by the name of chief-justice; and every of the said justices shall have full power and authority by virtue of this act when and as often as there may be occasion to issue forth writs of *habeas corpus*, *certiorari* and writs of error and all remedial writs of process returnable to the said court and grantable by the said judges by virtue of their office in pursuance of the powers and authorities hereby given them. And that the said judges or any two of them shall have full power to hold the said courts and therein to hear and determine all

causes, matters and things cognizable in the said court, and also to hear and determine all and all manner of pleas, complaints and causes which shall be removed or brought there from the respective general quarter-sessions of the peace to be held for the respective counties of Philadelphia, Bucks and Chester, as also for the city of Philadelphia, by writs of *certiorari* or writs of error, or from any other court of this province by virtue of any of the said writs after final judgment shall be given in the said courts, and to examine and correct all and all manner of errors of the justices and magistrates of this province in their judgment, process and proceedings in the said courts, as well in all pleas of the Crown, as in all pleas real, personal and mixed, and thereupon to reverse or affirm the said judgments as the law doth or shall direct, and also to examine, correct and punish the contempts, omissions and neglects, favors, corruptions and defaults, of all or any of the justices of the peace, sheriffs, coroners, clerks and other officers within the said respective counties.

And also shall award process for levying all such fines, forfeitures and amercements which shall be lost, taxed and set in the said supreme courts and not paid to the uses they are or shall be appropriated.

And generally shall minister justice to all persons and exercise the jurisdictions and powers hereby granted them concerning all and singular the premises according to law as fully and amply to all intents and purposes whatsoever as the justices of the courts of King's bench and common pleas at Westminster or any of them may or can do upon writs of error and other remedial writs issuing out of the said court; saving to all and every person or persons, his, her or their heirs, executors and administrators, their right of appeal from the final sentence, judgment or decree of any court within this province to His Majesty in council or to such court or courts, judge or judges, as by our sovereign lord the King, his heirs or successors, shall be appointed in that part of Great Britain called England to receive, hear and judge of appeals from His Majesty's plantations.

Provided, The persons appealing shall, upon entering his or

their appeal in the court where the sentence, judgment or decree shall be given in this province, pay all the costs before that time expended in the prosecution or defending the said suit, and shall further enter into bond with two good and sufficient securities in double the sum recovered (in the said court) to the defendant in the appeal conditioned to prosecute the said appeal with effect within the space of eighteen months next after the entry of such appeal and to satisfy the judgment of the court from which he appeals, and further to pay all such costs and damages as shall be adjudged to him to pay in case a sentence, judgment or decree pass against the said appellant, or in case he, she or they fail to prosecute their appeal with effect; and execution shall be suspended until the final determination of such appeal unless good and sufficient security be given by the appellee to make ample restitution of all that the appellant shall have lost by means of such judgment or decree in case upon the determination of such appeal such decree or judgment should be reversed and restitution awarded to the appellant.

And that there shall be a fit person nominated by the judges and commissioned by the governor to be prothonotary or clerk of the said supreme court, who shall keep and duly attend his office in some convenient place in the city of Philadelphia, and may be suspended, punished or amoved by the said court for misdemeanors in his office.

[Section VI.] And be it further enacted, That all the said writs shall be granted of course and made in the name and style of the King, his heirs and successors, and shall bear test in the name of the chief-justice for the time being, but if he be plaintiff or defendant, in the name of one of the other justices, and shall be sealed with the judicial seal of the said court and made returnable to the next court after the date of such writ.

Provided always, That none of the judges of the said supreme court shall sit judicially in any of the said courts of common pleas, quarter-sessions or any other inferior court of this province.

[Section VII.] And be it further enacted by the authority aforesaid, That the said judges of the said supreme court or

any two of them shall have power and are hereby authorized and empowered from time to time to deliver the gaols of all persons which now are or shall hereafter be committed for treasons, murders and such other crimes as (by the laws of this province) now are or hereafter shall be made capital or felonies of death as aforesaid, and that for that end from time to time to issue forth such necessary precepts and process and force obedience thereto as justices of assize, justices of oyer and terminer and of gaol delivery may or can do in the realm of Great Britain.

And also, That all manner of offenses already made or declared or hereafter to be made or declared to be capital or felonies of death by any law or act of assembly of this province, and done, perpetrated or committed or hereafter to be done, perpetrated or committed by any person or persons within the bounds and limits of the same province and without the certain and known bounds and limits of any of the counties now or hereafter erected in the [said] province, shall be from henceforth inquired of, heard and determined before the said judges by good and lawful men of the city and county of Philadelphia in like manner and form to all intents and purposes as if the said offenses and felonies of death had been done, perpetrated and committed within the said city or county of Philadelphia.

Provided always, That the fees due to the judges and officers of the said court for hearing any of the said capital offenses, for anything done there, shall be double the fees usually taken in the general quarter-sessions held in any of the said counties in this province, anything herein contained or in any other law of this province to the contrary notwithstanding.

Provided always, That to prevent the hardships some persons may be laid under by process issuing out of the said supreme court in civil causes and informations on penal statutes by color of or under pretense of some inseparable power belonging to the judges of the said court or by some pretense of authority of some former law of this province:

[Section VIII.] Be it further enacted by the authority aforesaid, That it shall not be lawful to and for the judges of the su-

preme court of this province or any of them to issue any original writ or process out of the said court in civil causes, except upon indictments found before them or removed thither from the courts of general quarter-sessions of the peace within this province, or for crimes made triable in the said supreme court only by the laws of this province, and for forfeitures, contempts and defaults incurred, made, done or committed in the said supreme court or against the authority of the same, any law, usage or custom to the contrary in anywise notwithstanding.

[Section IX.] Provided always, and be it further enacted, That no indictment found and now depending before the said judges in the supreme court, or removed from any of the courts of this province into the said court, or any other matter legally removed from any other court and now depending before the judges of the said court, shall be discontinued, but that the same may be heard, tried and determined before the said judges as fully as the same could have been heard, tried and determined before the making of this act, anything herein contained to the contrary in anywise notwithstanding.

[Section X.] And be it further enacted by the authority aforesaid, That a competent number of persons shall be commissioned by the governor or [his] lieutenant for the time being under the broad seal of this province, who shall hold and keep a court of record in every county of this province, which shall be styled and called the "County Court of Common Pleas," and shall be holden four times in every year at the place where the general quarter-sessions shall be respectively kept, viz.: at Philadelphia, for the county and city of Philadelphia, on the day called the first Wednesday after the day appointed for the quarter-sessions, to begin on there in the months called March, June, September and December; at Newtown, for the county of Bucks, on the eleventh day following (inclusive); and at Chester, for the county of Chester, on the day called the last Tuesday in the months called May, August, November and February, which said justices or any three of them (according to the tenor and direction of their commissions) shall hold pleas of assize, *scire facias*, replevins, informations and ac-

tions upon penal statutes, and hear and determine all and all manner of pleas, actions, suits and causes, civil, personal, real and mixed, according to the laws and constitutions of this province, as fully and amply to all intents and purposes as the justices of the King's bench, common pleas and exchequer in England or any of them may or can do.

[Section XI.] And be it further enacted by the authority aforesaid, That every of the said justices shall and are hereby empowered and authorized to grant under the seal of the respective counties replevins, writs of partition, writs of view and all other writs and process upon the said pleas and actions cognizable in the said respective courts as occasion may require.

[Section XII.] And be it further enacted, That the said justices of the said respective courts of common pleas shall and are hereby empowered to issue forth subpoenas, under their respective hands and seals, into any county or place of this province for summoning and bringing any person or persons to give evidence in and upon the trial of any matter or cause whatsoever depending before them or any of them, under such pains and penalties as by the rules of the common law and course and practice of the King's courts at Westminster are usually appointed.

[Section XIII.] And be it further enacted, That upon any judgment obtained in any of the said county courts of common pleas in this province and execution returned by the sheriff or coroner of the proper county where such judgment was obtained that the party is not to be found or hath no lands or tenements, goods or chattels in that county, and thereupon it is testified that the party skulks or lies hid or hath lands, tenements, goods or chattels in any other county of this province, it shall and may be lawful to and for the court that issued out such execution to grant and they are hereby required to grant an *alias* execution with a *testatum* directed to the sheriff or coroner of the county or place where such person lies hid or where his lands or effects are, commanding him to execute the same according to the tenor of such writ or writs and to make

return thereof to the county court of common pleas where such recovery is had or judgment given.

And if the sheriff or coroner (to whom such writ or writs shall be directed) shall refuse or neglect to execute or return the same accordingly, he shall be amerced in the court where he ought to return it and be liable to the action of the party grieved, and the said amercements shall be truly and duly set according to the quality of the offense, and process shall issue out against the offenders for levying of such amercements as shall be unpaid, which said amercements shall be levied by the proper officer and paid into the provincial treasury towards support of government, as above directed.

[Section XIV.] And be it further enacted by the authority aforesaid, That if any defendant or defendants in any suit or action by reason of his or their sudden departure out of this province shall require a more speedy determination in such action or suit than can be obtained by the common or ordinary rules of proceeding in any of the said county courts of common pleas in this province, the said justices upon application made shall grant to such defendant or defendants special courts, and shall proceed to hear and determine the premises according to the course and practice of the said county courts of common pleas for the usual fees therein taken.

Provided always, That before such justices shall grant such special courts or proceed to hear and determine the premises the defendant shall give bail to the plaintiff's action by recognizance, according to the course and practice of the said county court of common pleas.

And to prevent the excessive charges that have sometimes arisen upon executing writs of inquiry of damages:

[Section XV.] Be it enacted, That the justices who give any interlocutory judgment shall (at the motion of the plaintiff or his attorney in the action where such judgment is given) make an order in the nature of a writ of inquiry to charge the jury attending at the same or next court after such judgment is given to inquire of the damages and costs sustained by the plaintiff in such action, which inquiry shall be made and evidence given in open court, and after the inquest have con-

sidered thereof they shall forthwith return their inquisition under their hands and seals, whereupon the court may proceed to judgment as upon inquisitions of that kind returned by the sheriff.

[Section XVI.] And be it further enacted by the authority aforesaid, That there may be a competent number of persons of an honest disposition and learned in the law admitted by the justices of the said respective courts to practice as attorneys there, who shall behave themselves justly and faithfully in their practice, and before they are so admitted shall take the following qualification, viz.:

Thou shalt behave thyself in the office of attorney within the court according to the best of thy learning and ability and with all good fidelity, as well to the court as to the client. Thou shalt use no falsehood nor delay any person's cause for lucre or malice.

And if they misbehave themselves therein they shall suffer such penalties and suspensions as attorneys-at-law in Great Britain are liable to in such cases; by which attorneys actions may be entered and writs, process, declarations and other pleadings and records in all such actions and suits as they shall respectively be concerned to prosecute or defend from time to time may be drawn and with their names and proper hands signed; which said attorneys so admitted may practice in all the courts of this province without any further or other license or admittance.

And that the attorney for the plaintiff in every action shall file his warrant of attorney in the prothonotary's office the same court he declares, and the attorney for the defendant shall file his warrant of attorney the same court he appears, and if they neglect so to do, they shall have no fee allowed them in the bill of costs, nor be suffered to speak in the cause until they file their warrants of attorney respectively.

Passed August 27, 1727. See Appendix VIII, Section I. Repealed by the King in Council, August 12, 1731.

CHAPTER CCXCIX.

A SUPPLEMENT TO THE ACT FOR TAKING LANDS IN EXECUTION
FOR THE PAYMENT OF DEBTS.

Whereas sundry lands, tenements and hereditaments have been taken in execution and sold, pursuant to the direction of the abovesaid act, by some sheriffs in this province who have been removed by death or otherwise before any title made or deeds executed to the purchaser for the said lands or hereditaments so sold, by reason whereof great inconveniencies have arisen both to the purchaser and debtor:

For remedy whereof and to prevent such inconveniencies for the future:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That where the sheriff or other proper officer hath heretofore taken in execution, and either with or without any writ of *venditioni exponas* sold any land or hereditaments, and hath happened to die or be removed before a title made or deeds executed for the same, according to the directions of the said act; or whensoever it shall happen hereafter that any sheriff or other proper officer shall, pursuant to the said act, take in execution and sell any lands or hereditaments and shall happen to die or be removed from his said office before the deeds shall be executed or title made for the same to the purchaser, then and so often and upon all such accidents the plaintiff or person in whose behalf execution was levied may apply to the court of common pleas for the county where judgment was obtained and set forth to them his case, with the reasons why his title was not duly perfected by the preceding or former sheriff; and the said court may thereupon, as they shall see cause and as justice and equity shall require, order and direct

the sheriff for the time being to complete any such title and execute such deeds as aforesaid; and upon such order obtained as aforesaid and entered on the records of the court, it shall and may be lawful to and for the present and all succeeding sheriffs and they are hereby empowered and required (upon the full discharge and payment of the money or price of such lands or hereditaments with such charges as remain unpaid to the former sheriff) to make, execute and deliver any deed or deeds duly executed and acknowledged in court, and to perform and do all other matters and things which by the former sheriff might, could or ought to have been done in and about the premises, according to the direction of the said-recited act, which shall be deemed and adjudged as effectual in law as if the same had been done and finished by the said preceding sheriff, any law, usage or custom to the contrary in anywise notwithstanding.

Provided nevertheless, That this act or anything therein contained shall not extend to disannul, alter or make void the said-recited act or any part thereof, save only what is herein and hereby expressly altered and supplied.

Passed August 27, 1727. Repealed by the Act of Assembly passed March 23, 1764, Chapter 510.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1728, and continued by adjournments until the twenty-third day of August, 1729, the following acts were passed:

CHAPTER CCC.

AN ACT FOR EMITTING OF THIRTY THOUSAND POUNDS IN BILLS OF CREDIT FOR THE BETTER SUPPORT OF GOVERNMENT AND THE TRADE OF THIS PROVINCE.

Whereas the bills of credit formerly emitted in this province are now very much lessened by sinking the same according to the directions of the several acts by which they were made current, and the inhabitants of this province, being now become very numerous by the great and constant importation of foreigners as well as others, and our trade also greatly increased, are thereby reduced to very great difficulties for want of a currency to enable them readily to discharge their engagements to the English merchants and their factors trading here, who are no less affected in their interest for want of a sufficient medium of trade: Therefore, that these deficiencies may be supplied and the people relieved from the inconveniencies they at present labor under and a further provision made for the better support of government, which, without an addition to our currency, cannot be done by any ways or means practicable in this province:

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable Patrick Gordon, Esquire, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That indented bills of credit to the value of thirty thousand pounds, current money of America, according to an act

of Parliament made in the sixth year of the reign of the late Queen Anne, entitled "An act for ascertaining the rates of foreign coins in Her Majesty's plantations in America," shall be made and prepared before the fifteenth day of September next; which bills shall severally contain therein the sums hereafter respectively mentioned and no other: (That is to say) fifteen thousand of the said bills, the sum of twenty shillings in each of them; two thousand of the said bills, the sum of fifteen shillings in each of them; twelve thousand of the said bills, the sum of ten shillings in each of them; sixteen thousand of the said bills, the sum of five shillings in each of them; four thousand of the said bills, the sum of two shillings and six pence in each of them; twelve thousand of the said bills, the sum of two shillings in each of them; seventeen thousand of the said bills, the sum of eighteen pence in each of them; and ten thousand five hundred of the said bills, the sum of one shilling in each of them.

And the trustees hereafter named shall at the charge of this province, to be defrayed and paid in bills of credit, cause and procure the said bills to be made and printed upon good paper in the form following and not otherwise, viz.:

This indented bill shall pass current for in all payments, according to a law of Pennsylvania dated the fifteenth day of September, in the year of our Lord one thousand seven hundred and twenty-nine.

All which said bills shall be signed and numbered by Thomas Tress, Edward Horne, John Parry and Abraham Chapman or a majority of them; and the sums of money that every of the said bills is to pass for shall be printed at the top of each bill in words at length, with the arms of Pennsylvania on the left and the signers' names subscribed on the other side thereof.

And the better to prevent forged or counterfeit bills or any clandestine practice during the printing of the bills of credit hereby intended to be struck, they the said trustees or one of them or some other person under their direction and for whose care and management they shall be accountable shall personally attend the press during all the time of the printing the same bills, and shall nightly and at such other times as the

printing business is intermitted receive into his or their care and charge all the printing plates, types, bills, blotters and papers printed off and the same secure in the best manner until the printer proceeds in his operation and business aforesaid, and so from time to time until all the bills of credit aforesaid shall be fully printed off and be received by the said trustees as aforesaid.

And that the counterparts of all the said bills shall be likewise printed and shall be numbered by the signers, who shall deliver the same unsigned to the said trustees for the time being at the general loan office hereby intended to be erected, where they shall remain in books kept for that purpose under the care and charge of the said trustees for the trying the truth of the original bills whensoever there shall be occasion; and the same bills shall be so fashioned as may render them less liable to be counterfeited or fraudulently resembled by putting the figure or shape of a crown in five-shilling bills, two crowns in ten-shilling bills, three crowns in fifteen-shilling bills, and four crowns in twenty-shilling bills. And the said signers shall also deliver to the said trustees at the said loan office the originals of all the said bills so made forth, numbered and signed as aforesaid not exceeding the numbers hereinbefore respectively limited and appointed, taking the said trustees' receipt for the same and charging them respectively with the moneys contained in the bills so delivered in order to be lent out as hereinafter directed. And the said signers shall cause to be kept a true account of all the said bills by them signed and delivered to the said trustees as aforesaid, and for their trouble, care and diligence in doing what is required of them by this act they shall each of them receive fifteen shillings for every thousand bills by them so signed and numbered, to be paid to each of them, his executors, administrators or assigns, in bills of credit, to be delivered [to] them by the said trustees within six days after they deliver the said bills and counterparts in the loan office as aforesaid.

But before the said persons hereby appointed or hereafter to be appointed by virtue of this act to be signers of the said bills of credit presume to act therein, they shall take an oath

or affirmation before any one justice of the peace for the city or county of Philadelphia, who is hereby empowered and required to administer the same, charging them jointly and severally that they will well and truly number, sign and deliver all the said original bills of credit, and truly number and deliver all the counterparts of the same bills, and keep a true account of what bills they sign and deliver, with the counterparts thereof, according to the direction of this act.

[Section II.] And be it further enacted by the authority aforesaid, That Samuel Carpenter, William Fishbourn, Jeremiah Langhorne and Nathaniel Newlin shall be and are hereby nominated and appointed trustees for the holding and ordering of the said general loan office, and for the receiving and issuing the said bills of credit and taking securities for the same, and for the directing, managing and performing all other matters and things hereby enjoined and required to be done and transacted by them in the said office and relating to the said bills of credit according to the direction and true meaning of this act.

And if any of the said trustees shall happen to die or be removed for misfeasance or for not acting, it shall be lawful for the assembly of this province from time to time during the continuance of this act to elect and appoint some other fit person or persons in the place or places of such trustee or trustees so dying, misbehaving or refusing as aforesaid; and that the trustee or trustees so from time to time elected and appointed shall have the same power and authority as if they had been nominated and appointed by this act.

And that the persons now or hereafter appointed trustees by virtue of this act shall be styled "The Trustees of the General Loan Office of the Province of Pennsylvania," and by that name shall have succession during the continuance of this act, and by the name aforesaid shall be able and capable in law to receive, take, hold and enjoy and retain to them and their successors in the said trust all such lands, tenements, rents and hereditaments and all such plate as shall be granted them in mortgage for securing the repayment of such sums of money as they shall from time to time lend and issue in the said bills

of credit, and also to sell, grant, alien and dispose of the same lands, tenements, rents, hereditaments and plate in default of payment as in and by this act is provided and directed in those cases; and by the same name to sue and implead, be sued and impleaded, answer and to be answered, in all cases relating to the said trust in all courts and other places whatsoever; and by the name aforesaid to do and execute all other matters and things that to them shall or may appertain to do and perform pursuant to this act, subject to the provisos, restrictions and limitations herein expressed.

And that the said trustees for the time being or any three of them shall duly attend at the said loan office every third and fourth day, commonly called Tuesday and Wednesday, in every week until all demands for borrowing money in the said loan office be answered, and afterwards at such times as their trust and service of the public may require them during the continuance of this act.

And such of the said trustees as shall undertake and execute the said trust shall be allowed for their service and trouble therein after the rate of ten pounds per annum added to their salaries of ninety pounds each allowed by former acts during the continuance of those acts, and after the expiration thereof the sum of fifty pounds apiece during the continuance of this act, payable to each of them, his executors, administrators or assigns, in the said bills of credit during the continuance of their trust.

But the trustees hereby appointed or hereafter to be appointed before they receive the said bills or enter upon the execution of their [said] trust shall each of them enter into a bond to the provincial treasurer for the time being in the penalty of one thousand pounds each conditioned for the due observance of all things required of them by this act and true performance of the trust hereby reposed in them, and shall also take an oath or affirmation before any one justice of the peace for the city or county of Philadelphia, who is hereby empowered and required to administer the same in these words, to wit:

I, A. B., will, according to the best of my skill and knowledge, faithfully, impartially and truly demean myself in the discharge of the trust committed to me by an act of general assembly of this province, entitled "An act for the emitting and making current thirty thousand pounds in bills of credit," according to the purport and tenor of the said act, so as none may be prejudiced by my consent, privity [or] procurement.

[Section III.] And be it further enacted, That the said trustees after they are so qualified shall receive into the said office all such and so many of the said bills of credit and counterparts thereof from the said signers as they may have occasion to lend out from time to time, and thereupon shall give their receipt for the same, and keep true accounts as well of the said bills which they respectively receive and issue out, as also of the money and bills which they shall actually receive and pay pursuant to this act; to which several accounts the committee of assembly hereafter appointed to audit the said trustees' accounts shall have free access at all seasonable times to the end they may be satisfied that the sum for which bills may be issued pursuant to this act is not exceeded, and may be acquainted from time to time with the state of the whole transaction and affairs relating to the said office.

And forasmuch as the chief intent of appointing the said trustees is in order to enable them to lend the said bills on securities of lands at low interest:

[Section IV.] Therefore it is further enacted, That the said trustees shall lend out the value of twenty-six thousand pounds of the said bills on land security, at the interest of five per cent per annum, for the term of sixteen years from the date of the said bills in sums not exceeding three hundred pounds nor less than twelve pounds ten shillings to any one person or persons.

Which said bills so lent shall pass in all payments from any person or persons to any other person or persons, and shall be deemed to be good payment for debts, rents, goods, chattels, plate, bargains, sales, specialties, bonds and all other demands whatsoever as if the same were paid in the coins mentioned, and at the full rates ascertained in and by the said act of Parliament, and shall be as effectual a bar of such suits or actions

as shall be brought for such debts or demands as if the money had been paid at the day and place according to the condition, defeasance or contract, and had been so pleaded; and the tenders and refusals or not receiving of the said bills shall be available and conclusive in law and equity as if such tenders were in the said coins or in the current coins of England or in any other coin or specie mentioned in the said contracts upon which any such tenders are made.

And if at any time pending an action upon any bond or any other writing obligatory the defendant shall bring into court where the action shall be depending all the principal money and interest due on such bond or writing, with all the costs that have been expended in any suit or suits in law or equity upon such bonds or writings, the said money or value thereof in the said bills of credit hereby made current so brought into court and offered at the value and rates set upon them by this act shall be deemed and taken to be in full satisfaction and discharge of the said bond or writing, and the court shall forthwith give judgment to discharge every such defendant of and from the same accordingly.

And for the better discovery of incumbrances which may affect the said securities, it shall be lawful for the said trustees and such as they shall appoint from time to time to make searches in any office in the province, and if there be occasion take copies or transcripts of the dockets or notes of any extents and judgments or of mortgages and entails kept in any of the said offices without paying any fee or reward for the same.

And to the end the said trustees may be the better enabled to perform their said trust, they shall inform themselves as well of the clear values as of the titles of all the lands, houses and ground-rents which shall be proposed in security for the said bills, so as to be satisfied that the said lands and ground-rents are at least double the value and houses treble the value of the sums requested to be lent, and then they shall receive and take the same in mortgage accordingly:

Provided, That upon all the loans hereby intended the trustees shall take care that the borrower has an indefeasible estate in fee-simple in the lands, tenements, rents and heredita-

ments by him proposed to be mortgaged, and that they are free from former sales, gifts, grants, mortgages, entails and all other incumbrances except the proprietary's quit-rents or other rents issuing out of the same.

But before the trustees shall accept of any mortgage upon messuages, lands or tenements subject to the payment of such quit-rents, ground-rents, rent charge or other annual payments, they shall duly consider and, according to the best of their skill, find out the clear value thereof, not reckoning the said rents at more than sixteen nor less than ten years' purchase, and shall let out upon loan to the mortgagor one-third part of the value aforesaid in bills of credit at the interest and for the term aforesaid; and that the persons offering any of the said houses, lands, ground-rents or rent charge to mortgage for any of the said bills shall at or before the time of executing the deed of mortgage declare upon oath or solemn affirmation in the usual form, which the trustees or any one of them are hereby empowered and required to administer, that he or she is really seized of the premises in his or her own right, "and to his or her own right" and to his or her own use; and that the lands, houses and ground-rents or rent charge mentioned in the deed by him or her to be executed are free and clear from any former or other gift, grant, mortgage or other incumbrance to his or her knowledge excepting the proprietary's quit-rents or other charges appearing in his or her deeds then produced, which oath or affirmation shall be endorsed on the back of the mortgage with the day and year of the caption thereof, for which the clerk shall receive six pence and no more.

And for securing the payment of the sums or values so lent as above directed, the said trustees or any three of them shall, in pursuance of the trust hereby reposed in them and as trustees of the general loan office aforesaid and not otherwise, take and receive deeds of mortgage in fee-simple for what they lend, which, being executed and acknowledged or proved as hereinafter directed, shall transfer the possession of the lands, houses and hereditaments thereby granted to the said trustees and vest the inheritance thereof in them and their successors as fully and effectually as deeds of feoffment with livery and

seizin or deeds enrolled in any of the King's courts at Westminster may or can do in England, in all which deeds the words "grant, bargain and sell" shall amount to and be construed and adjudged in all courts of judicature to be express covenants to the said trustees, their successors and assigns, from the bargainer or mortgagor, for himself, his heirs, executors and administrators, that the mortgagor, notwithstanding any act done by him, was at the time of the execution of such deed seized of the hereditaments and premises thereby granted of an indefeasible estate in fee-simple, free from all incumbrances (rents due to the lord of the fee with the other rents and reservations contained in their respective deeds only excepted), and for quiet enjoyment thereof against the mortgagor, his heirs and assigns, and all claiming under him or the former owners thereof, and also for a further assurance to be made by the mortgagor, his heirs and assigns, as the case may require, so that those express covenants are not to be set down at large in any of the mortgages, but that the said trustees and their successors in the said trust respectively shall and may in any action to be brought assign breaches thereupon, as they might do in case such covenants were expressly inserted in such deeds.

And the said trustees or some or one of them, upon acceptance of any mortgage by them taken, shall (at the reasonable request and charge of the respective mortgagors) sign a proper receipt of all the writings and evidences of his title and estate to the mortgaged premises left with the said trustees.

And that all the said mortgages or defeasible deeds, being sealed and delivered to the said trustees or some of them in the presence of two or more credible witnesses, and proved or acknowledged before any justice of the peace in this province, shall be fairly entered at the charge of the mortgagors in large books to be for that purpose provided and kept by the said trustees, as hereinafter directed; and [an] attested copy of any of the said deeds so entered and certified under the hands of the said trustees for the time being or any three of them shall be and is hereby declared to be matter of record, and shall be good evidence to prove the sale or mortgage thereby mentioned to be made, which mortgage-deeds, being so entered, shall be

kept by the trustees in some proper house or place distant from the place of the records thereof for the better preservation and security against accidents.

And the said trustees shall at their own proper costs and charges provide [the] said books of [royal] or [other] large, good paper, well bound and covered, wherein shall be recorded all the said deeds of mortgage given in security for the said bills of credit to be lent out as aforesaid.

And for the more regular management of the affairs relating to the said office, the trustees are hereby empowered to choose and employ a fit and able person for whom they shall be answerable to serve them as clerk of the said office during their pleasure, who for recording every one of the said deeds shall have the sum of four shillings, and for every attested copy thereof, four shillings and no more; and for [every] mortgage-deed that he draws, the sum of eight shillings and no more; which said sums are to be paid by the mortgagor, his [heirs], executors or administrators, in full satisfaction of all fees and charges demandable by the said clerk for drawing, engrossing and recording the said deeds and inspecting the title of the lands and premises thereby mortgaged.

And the said clerk shall also prepare a bond of double the mortgage-money for every mortgagor to execute along with their respective deeds of mortgage conditioned for the payment of the money borrowed with the interest, according to the proviso or condition contained in every deed of mortgage, and shall also prepare a warrant of attorney, to be at the same time signed and sealed by every mortgagor, empowering such person or persons as the trustees shall nominate and appoint to acknowledge or suffer judgment against him, his heirs, executors and administrators, which they the said trustees are hereby required to cause their attorney to enter in due form of law in the court of common pleas for the proper county against such mortgagor, his heirs, executors and administrators, as shall make default in the payment of the mortgage-money or any part thereof according to the direction of this act and times of payment specified in the proviso contained in his mortgage-deed, either in actions of ejectment to gain the

possession of the mortgaged premises, or in actions of debt to be brought upon any of the said bonds for non-performance of the conditions thereof, or in such actions of debt as the said trustees are hereby required to bring for the value of the bills of credit which happen to be received by the mortgagors whose title to the lands, tenements or hereditaments by them mortgaged shall prove defective, together with the interest hereby allowed upon such loans and costs of suit; and the said clerk shall also insert a release of errors in every of the said warrants of attorney, and for the said bonds, warrants of attorney and release of errors the said clerk shall have two shillings for the whole and no more.

But before any person so chosen to be clerk shall enter upon the execution of the said office he shall take an oath or affirmation before some justice of the peace for the city or county of Philadelphia, who is hereby empowered and required to administer the same, in these words:

I, A. B., shall truly and faithfully perform and execute the office and duty that is directed and required of me according to a law of this province, entitled "An act for emitting and making current thirty thousand pounds in bills of credit for the better support of government," &c., and that I will keep a just and true account of the names of all such persons as shall apply to the said office for bills of credit, and will prepare and record their deeds of mortgage in the same order of time as their applications are made without any undue preference, unnecessary delay or fraudulent practice.

[Section V.] And be it further enacted by the authority aforesaid, That the said sums of money so lent upon mortgage shall be paid in again, with the annual interest, in the said bills of credit or in current money of America or in any other bills of credit made current by a law of this province to the trustees of the general loan office aforesaid in manner following: (That is to say) one-sixteenth of the said sum borrowed, with the whole interest of five per cent per annum, shall be annually paid by the mortgagor, his heirs, executors or administrators, to the said trustees, who shall endorse the sum received, both principal and interest, upon the back of the mortgage-deed and also upon the back of the said counterpart, for both which en-

dorsements made in manner aforesaid they shall be paid by the mortgagor the sum of six pence and no more.

And at the last payment of the said money and interest the said mortgage shall be discharged and the original as well as mortgage-deeds delivered by the said trustees, from which time the said lands, houses and ground-rents so mortgaged or engaged shall be forever clearly acquitted and discharged; and the said trustees shall make an entry in the margin or enrollment of the said mortgage of the day and year of such discharge, for which they shall be paid by the mortgagor the sum of six pence and no more, an attested copy of which entry of the said discharge of such mortgages, signed by the majority of the said trustees for the time being, shall be as valid and effectual in law as their re-conveyance of the mortgaged premises made and executed in the usual form can be to the mortgagors, their heirs and assigns.

[Section VI.] Provided also, and be it further enacted, That until some default shall be made by the said respective mortgagors of or in payment of the mortgage-money or some part thereof, it shall be lawful for them and their heirs to hold and enjoy the mortgaged premises with the appurtenances, anything in the deeds of mortgage or in this act contained to the contrary notwithstanding.

But if default shall be made or suffered by any of the said mortgagors, their heirs, executors, administrators or assigns, of or in payment of any of the said yearly payments or sums, whether in part of the principal or interest which they or any of them should have paid on the days and times and in manner and form as in and by their respective deeds of mortgage shall be specified, it shall and may be lawful to and for the said trustees for the time being at their discretion either to take their remedy by course of law as hereinabove directed, and proceed to take the mortgaged lands and hereditaments in execution as for other debts, or within two months next after the days whereon the same ought to be paid, according to the several provisos or conditions in their deeds respectively contained, to enter upon the lands, houses, rents and hereditaments in the same deeds specified and expose the same to a public sale, and

thereupon sell and convey the same lands, hereditaments and premises to the best purchaser, and out of the money arising by such sale detain and keep the moneys to them due thereon and all costs and charges relating thereto, returning the overplus (if any be) to the owners of such lands and hereditaments; and that then and in such case the owners of such lands and hereditaments shall stand absolutely foreclosed from all equity of redemption of the same.

Provided also, That if any of the said judgments which warrant the awarding of any writs for the sale of the said lands, tenements or hereditaments shall at any time hereafter be reversed for any error or errors, then and in every such case none of the said lands, tenements or hereditaments so as aforesaid taken or sold or to be taken or sold upon executions nor any part thereof shall be restored nor the sheriff's sale thereof avoided.

And that no sale which shall be made by virtue of this act shall be extended to create any further estate to the vendee than the lands or hereditaments so sold or delivered shall appear to be mortgaged for by the said respective mortgages or defeasible deeds.

Provided also, That it shall and may be lawful for the trustees of the loan office aforesaid or any three of them to let out upon loan in such manner as they shall think best any sum of the said bills of credit, not exceeding the sum of two hundred pounds, to one person upon security of good plate, to be delivered to them at the value of five shillings, current money of America, per ounce, and at the interest of five per cent per annum, to be paid in again to the said trustees within the space of twelve months with the interest aforesaid; and in case of non-payment, within one month after default made to sell and dispose of the said plate for the most it will yield, returning the overplus (if any be) to the owner thereof after payment of the principal and interest with the charges accrued thereupon.

And whereas the true and regular sinking of the said bills of credit will very much conduce to the keeping up the value of the same:

[Section VII.] Be it enacted by the authority aforesaid,

That a committee of the assembly of this province shall once every year or oftener, as the assembly shall think fit, be appointed to audit the accounts of all the moneys in bills of credit so as aforesaid let out upon loan to the inhabitants of this province according to the direction of this act, and also the sums of money and bills of credit received by the said trustees from the respective mortgagors, their heirs, executors and administrators, and shall within one week next after the said accounts are so audited affix advertisements on the most public places of the city of Philadelphia setting forth what quantity of money has been received and is in the hands of the trustees aforesaid over and above what will pay the interest due to the public for the loan of the said bills of credit let out upon mortgage by virtue of this act, which money shall by the said trustees be given in exchange for bills of credit made current by this act to any person or persons bringing in the same, and the said bills of credit received as part of the principal sum lent out of the said office in manner aforesaid and remaining in the hands of the trustees shall within ten days after such audit be sunk and destroyed in the presence of the committee who shall be appointed auditors, they having first compared the said bills of credit with their counterparts, and entered into a book to be kept for that purpose the number and value of each bill of credit so sunk and destroyed.

And that after the aforesaid sum of thirty thousand pounds in the said bills of credit ordered to be let out upon loan by this act shall be accounted for by the said trustees and sunk according to the directions of this act, the aforesaid trustees, their heirs, executors and administrators and every of them, shall from thenceforward stand and [forever] be clearly discharged and acquitted of and from all and all manner of security and other or farther demands to be had or made for anything by them done in discharge and execution of the trust reposed in them by this act.

Provided always, That if any person or persons who shall take upon loan any of the said bills of credit shall see cause at any time after the making the said mortgage and before the forfeiture and sale thereof to pay down the whole principal and

interest then due in the like public bills of credit or current money of America, upon his or her so doing such mortgage or security shall be released and delivered in the manner before directed, and the lands, ground-rents and houses in the said mortgage-deed contained and mortgaged shall be forever discharged therefrom.

[Section VIII.] And it is hereby declared and enacted, That if any sum or sums shall be so paid down pursuant to this clause before or at any other days or times of payment than what are or shall be mentioned or specified in the respective mortgages, then and in every such case it shall be lawful for the trustees of the loan office by this act directed, and they are hereby required, in the presence of the committee of the assembly to sink such part or parts of the principal sums due upon the said mortgages when such payments are made as by this act is directed in other cases, and thereupon emit or let out upon loan all the residue thereof, together with such other sums as shall arise from the sales of estates forfeited and sold pursuant to the said accounts; all which sums so emitted shall be secured and [made] payable, with the interest at five per cent per annum, at such days and times and after such manner as in and by this act is limited and not otherwise, so that the payments be proportioned to the time unexpired.

[Section IX.] And be it enacted by the authority aforesaid, That the annual interest received for the loan of the said bills of credit which shall be remaining in money in the hands of the said trustees, after the accounts audited as aforesaid and after salaries and charges allowed by this act are deducted, shall be disposed of in such manner as the assembly of this province shall from time to time think fit to order and direct.

[Section X.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall presume to forge or counterfeit or be aiding or assisting in forging or counterfeiting any of the said bills of credit or utter or cause to be uttered or offered in payment any bill or bills, knowing the same to be actually forged or counterfeited, with an intent to defraud any other person, and be thereof legally convicted, he, she or they so offending shall be set upon the pillory in some

open public place, and there have both his or her ears cut off, and be publicly whipped on his or her bare back with thirty-one lashes well laid on, and moreover shall forfeit the sum of one hundred pounds current money of America, to be levied of the lands and tenements, goods and chattels of such offenders, the one-half thereof to the use of the government, the other half thereof to the discoverer; and the offender shall pay to the party grieved double the value of the damage sustained by the said counterfeit bills, together with the costs and charges of prosecution. And in case the person or persons so convicted have not sufficient to satisfy the party for his or her damages and charges and to pay the forfeitures aforesaid, then in such case the offender or offenders shall, by order of the court by which they were convicted, be sold for any term not exceeding seven years for satisfaction of the same; and in such case the trustees of the said loan office shall reward the discoverer and prosecutor of such insolvent offenders to the value of five pounds.

And that all magistrates and others into whose hands any counterfeited bills may happen to come shall forthwith deliver the same to one of the trustees of the said loan office, who shall cause the names of those that delivered them and the persons from whom they were taken to be indorsed on the back thereof, which bills shall be safely kept in the said office and be forthcoming when there may be occasion to make use of the same, and afterwards delivered to a committee as aforesaid to be destroyed.

[Section XI.] And it is hereby declared and enacted by the authority aforesaid, That this present act shall be taken and allowed in all courts within this province as public acts, and all judges, justices and other persons concerned therein are hereby required to take notice thereof as such without pleading the same specially.

And for the more ease to the said trustees in the attendance on their duty required by this act and the better settling their accounts with the said committee:

[Section XII.] Be it further enacted by the authority aforesaid, That upon any future emission of any bills of credit by

virtue of this act the trustees are hereby directed and empowered so to devise the mortgage-deeds that the annual quotas or payments of the money thereby secured be made payable on the fifteenth day of October annually during the respective terms or number of years limited for payment thereof. And that as often as the whole or remainder of any principal sum emitted by virtue of this or any other act for emitting bills of credit in this province shall be paid in or recovered within the time limited for payment thereof by the mortgage-deed, the trustees are hereby required in settling their accounts with the auditors aforesaid to render accounts as well of the days and times of their receipts thereof as also of the days and times when the same sums are emitted again.

And whereas the funds provided for the support of this government have proved deficient, and divers sums claimed as debts due from this province remain yet unpaid:

[Section XIII.] Therefore be it enacted by the authority aforesaid, That the sum of one thousand pounds in the said bills of credit be delivered to the provincial treasurer for the time being, who shall give his receipt for the same, which receipt shall be deemed, taken and allowed to be a good and sufficient discharge to the said trustees, their heirs, executors and administrators, for the sums in the bills of credit mentioned and contained in such receipts, which said bills or so many of them as shall be needful the treasurer shall forthwith apply to the paying and discharging the several sums of money due and to be due and owing by any order of assembly of this province; and the residue (if any be) to be applied to the payment of such orders as shall be issued by this or any succeeding assembly of this province and not otherwise.

And that the said sum of one thousand pounds hereby directed to be lent to the provincial treasurer shall be sunk by an annual sinking and destroying of one hundred pounds interest money arising by this act by the said trustees in presence of a committee of assembly in manner hereby prescribed for sinking bills of credit in the said loan office, and as this act in like cases directs, until the said one thousand pounds be sunk and destroyed.

And whereas it is represented by the recorder of the city of Philadelphia, in behalf of the mayor and commonalty of the said city, the great necessity there is for an almshouse, and desiring the loan of one thousand pounds in bills of credit for the purchasing a convenient piece of ground and for building the same thereupon within the city of Philadelphia for the use of the poor of the said city:

[Section XIV.] Be it therefore enacted by the authority aforesaid, That the sum of one thousand pounds in bills of credit made current by this act be delivered by the said trustees to the mayor and commonalty of the said city of Philadelphia, they giving their receipts to the said trustees for the same and securing the repayment thereof by obligation under their common seal, to be given to the trustees of the loan office, which said bills shall be sunk by taxes to be laid on this city for that purpose in the same manner that county and city levies are usually raised and levied, until all the said bills of credit so as aforesaid received on the account and for the use of the said city be sunk in the manner hereby prescribed for sinking bills of credit in the said loan office.

And forasmuch as a house for the representatives of the freemen of this province to meet and sit in general assembly in the city of Philadelphia is very much wanted:

[Section XV.] Be it therefore enacted by the authority aforesaid, That the sum of two thousand pounds of bills of credit made current by this act be delivered by the trustees of the loan office to Thomas Lawrence, Andrew Hamilton and John Kearsley, who are hereby appointed for building and carrying on the same, who shall give their receipt to the trustees for the said bills, which receipt shall be deemed, taken and allowed to be a good and sufficient discharge to the said trustees, their heirs, executors and administrators, for the sums in the bills of credit mentioned and contained in such receipts. And that the said sum of two thousand pounds shall be sunk by an annual sinking and destroying of two hundred pounds interest money arising by this act by the said trustees in presence of a committee of assembly in manner hereby prescribed for sinking bills of credit in the said loan office, and as this act

in like cases directs, until the said two thousand pounds be sunk and destroyed.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed March 5, 1725-26, Chapter 289.

CHAPTER CCCL.

AN ACT FOR ERECTING OF POUNDS IN EACH TOWNSHIP OF THIS PROVINCE.

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for the inhabitants of the respective townships within this province who are owners or possessors of land to meet on the twentieth day of the month called May, unless it happens on the First day of the week, then on the next day after, yearly, or at such other time as the majority of those that meet may appoint, at the most public place of each respective township in every county within this province, and there the majority of those so met shall choose a fit person to be poundkeeper in each township for the year ensuing, which poundkeeper, where no pound is already erected, shall agree with some person forthwith to build or erect a good and sufficient pound in some fit and convenient place within the said township, where the same shall be agreed upon by the majority of the persons aforesaid being then present, a memorandum or minute of which appointment shall be taken and kept by the constable of the said respective townships and returned to the next county court to be held for the county in which the said respective townships do lie, the clerk of which county court shall enter the same among the proceedings of the said court and shall forthwith affix public notice

in writing on the door of the court-house of the name of each respective poundkeeper and the places where the same are erected.

[Section II.] And be it further enacted by the authority aforesaid, That whoever shall take up any stray horse or horses, cattle or sheep, trespassing within their inclosures within this province shall, within the space of twenty-four hours after such taking up, give notice to the owner or owners of such horse, cattle, &c., if he or she can be readily found, and if the owner shall upon such notice neglect or refuse to make reasonable satisfaction to the party grieved as by them shall be agreed upon or if no owner be found, then the said taker-up shall take or send such trespassing [creature or] creatures to the poundkeeper of the township where the trespass was committed, who shall receive the same immediately into his custody and shall feed them duly with grass or good hay and water during the time of their continuance in the pound, and shall pay to the party grieved such damages as shall be assessed by any two indifferent neighbors living near to the place where the trespass was committed, to be nominated by the said poundkeeper.

[Section III.] And be it further enacted by the authority aforesaid, That after any horses, cattle or sheep [shall] be delivered to any poundkeeper he shall forthwith enter the kind, color and marks of such creatures in a book by him to be kept for that purpose, together with the day of his receiving the same and from whom he received them; and thereupon shall within ten days send an account in writing to the clerk of the county court where such township lies, who shall affix the notice in public view in his office; and the poundkeeper shall also affix notice in writing at the court-house of the same county of the kind of creatures so impounded, together with their marks described at large, to the end that the owners of such trespassing creatures may the more readily be informed of and restored to their property; and if the owner appear and make out his right to the said creatures, the same shall forthwith be delivered to him, he paying to the poundkeeper the sum of one shilling for taking [in] and delivering out each creature,

together with the damages paid to the taker-up of such trespassing creatures, and the sum of six pence a head for horses or horned beasts for each day and one penny a head for sheep for each day, charges allowed by this act for feeding the said creatures and publishing their kind and marks in the manner herein directed; and also the sum of six pence to the use of the clerk of the county court for entering and filing the certificate of the poundkeeper. And if no owner shall appear to claim the creatures so impounded within the space of three months after impounding, it shall and may be lawful to and for the said poundkeeper by warrant from one justice of the peace of the said county, who is hereby required to grant the same, to expose such trespassing creatures to sale by public vendue for the most that can be got for the same after ten days' public notice given of the time and place of sale, and out of the money arising by such sale the said poundkeeper shall and may retain to himself for publishing and booking each horse two shillings, for each horned beast one shilling and six pence, and for each sheep nine pence, and likewise all such moneys as he hath paid to the taker-up of such trespassing creatures on account of his damages or other charges allowed by this act; and shall likewise retain to himself the sum of six pence for every day he shall keep such trespassing creatures in the pound if the same be a horse or horned beast, and one penny each day for each sheep; and the said poundkeeper shall, moreover, be allowed the sum of ten per cent on all sales made by him according to the directions of this act, and shall keep a plain account of all his proceedings and return the same together with the overplus money (if any be remaining) to the justices at their next county court to be held for the said county, who shall order the same to be paid to the overseers of the poor of the township where the creature was impounded for the use of the same township after the costs paid to the clerk for his service therein.

Provided also, That if the right owner of any beast sold as aforesaid appear within nine months after sale made as aforesaid and prove his property to any such creature sold in pursuance of this act before the justices of the peace of said county

at the next court, they shall thereupon order repayment of the money arising by such sale to the said owner, all reasonable charges first deducted.

[Section IV.] And be [it] further enacted by the authority aforesaid, That if any person or persons shall by force or otherwise, without the leave of the poundkeeper or by due order of law, take away any trespassing creature impounded according to the directions of this act and shall be legally thereof convict, he, she or they shall forfeit the sum of five pounds, to be applied to the use of the poor of that township in which the said creature was impounded; and that it shall and may be lawful for the overseers of the poor of the respective townships within this province, and they are hereby enjoined and required, to assess the inhabitants of the respective townships in the same manner as they are directed by the act for the relief of the poor, for such sum or sums of money as may or shall be necessary for supplying the charge of building and maintaining the said respective pounds and to collect the same, to be employed as shall be directed by the majority of the freeholders of the respective townships at their town meetings, for and towards the building and maintaining of pounds and no other use whatsoever; and if any person or persons shall refuse to pay their respective rates as taxed, that then the said overseers shall make complaint thereof to any one justice within [the] said county, where he resides, who is hereby required forthwith to issue out his warrant to the overseers of the poor of the township where such default is made to make distress upon the offender's goods and chattels, who shall immediately make sale thereof for paying the said assessment and charges of distress, and return the overplus (if any be) to the owner.

[Section V.] And be it further enacted by the authority aforesaid, That to prevent disputes about the sufficiency of fences, all fences shall be esteemed lawful or sufficient, though they be not close at the bottom, so that the distance from the ground to the bottom thereof exceed not nine inches, and that they be four feet and a half high and not under.

[Section VI.] And be it likewise enacted, That the former

act made for erecting pounds passed in the seventh year of the late King George the First and every part thereof shall be made void and repealed by this act, anything in the said former act contained to the contrary in anywise notwithstanding.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the notes to the Acts of Assembly passed November 27, 1700, Chapter 56; May 9, 1724, Chapter 279; and the Acts of Assembly passed March 4, 1763, Chapter 490; April 5, 1779, Chapter 842; March 13, 1780, Chapter 892; April 2, 1781, Chapter 934; March 27, 1784, Chapter 1089; December 9, 1789, Chapter 1478; April 22, 1794, Chapter 1774; March 7, 1800, Chapter 2120; April 1, 1805, P. L. 194; April 9, 1807, P. L. 183; April 13, 1807, P. L. 286; March 28, 1808, P. L. 163; February 6, 1810, P. L. 17; (the three acts of) March 20, 1810, P. L. 160, 161, 188; March 27, 1812, P. L. 175; March 25, 1813, P. L. 170; March 29, 1813, P. L. 230; February 25, 1814, P. L. 66; March 14, 1814, P. L. 96; January 25, 1816, P. L. 8; February 17, 1816, P. L. 69; March 5, 1819, P. L. 87; March 28, 1820, P. L. 171; April 2, 1821, P. L. 206; March 29, 1824, P. L. 126; April 5, 1830, P. L. 215; April 1, 1831, P. L. 342; January 10, 1832, P. L. 12; May 4, 1832, P. L. 480; April 15, 1834, P. L. 537; March 11, 1842, P. L. 62; February 24, 1847, P. L. 164; March 3, 1847, P. L. 199; April 14, 1851, P. L. 612; (the two acts of) April 18, 1853, P. L. 530; P. L. (1854) 825; April 14, 1855, P. L. 234; April 26, 1855, P. L. 316; April 27, 1855, P. L. 351; March 26, 1857, P. L. 124; April 15, 1857, P. L. 196; April 24, 1857, P. L. 309; March 5, 1858, P. L. 78; February 25, 1859, P. L. 79; February 15, 1860, P. L. 55; February 22, 1860, P. L. 68; March 25, 1861, P. L. 204; April 17, 1861, P. L. 323; April 11, 1862, P. L. 496; April 14, 1863, P. L. 453; April 15, 1863, P. L. 501; April 9, 1864, P. L. 369; March 4, 1865, P. L. 271; March 21, 1865, P. L. 444; March 22, 1865, P. L. 538; (the two acts of) March 23, 1865, P. L. 42, 675; February 9, 1866, P. L. 23; March 27, 1866, P. L. 332; (the four acts of) April 11, 1866, P. L. 562, 703, 716, 737; April 12, 1866, P. L. 101; June 26, 1866, P. L. 1114; April 3, 1867, P. L. 691; April 8, 1867, P. L. 940; (the four acts of) April 10, 1867, P. L. 996, 1021, 1071, 1082; April 13, 1867, P. L. 1224; February 28, 1868, P. L. 236; March 12, 1868, P. L. 301; March 28, 1868, P. L. 514; April 1, 1868, P. L. 573; April 9, 1868, P. L. 779; April 11, 1868, P. L. 865; April 14, 1868, P. L. 1122; April 2, 1869, P. L. 672; April 9, 1869, P. L. 800; April 13, 1869, P. L. 892; April 17, 1869, P. L. 1125; February 24, 1870, P. L. 230; April 13, 1870, P. L. 1145; March 17, 1871, P. L. 411; May 25, 1871, P. L. 1137; (the two acts of) May 29, 1871, P. L. 1279, 1291; March 9, 1872, P. L. 295; March 23, 1872, P. L. 510; March 18, 1873, P. L. 310; April 8, 1873, P. L. 565; (the two acts of) April 10, 1873, P. L. 665, 700; May 23, 1874, P. L. 230; (the two acts of) May 22, 1878, P. L. 96, 99; June 23, 1885, P. L. 142; (Section VI was repealed by the Act of Assembly passed) May 23, 1887, P. L. 167; May 24, 1887, P. L. 204; April 4, 1889, P. L. 27; April 26, 1889, P. L. 64; May 23, 1889, P. L. 277; May 23, 1891, P. L. 108; May 31, 1893, P. L. 185.

CHAPTER CCCII.

A SUPPLEMENT TO THAT PART OF THE ACT FOR RAISING COUNTY RATES AND LEVIES RELATING TO THE KILLING OF WOLVES.

Whereas by a paragraph in an act of general assembly of this province, entitled "An act for raising county rates and levies," it is provided and enacted, That there shall be paid for every dog or bitch wolf fifteen shillings, for every wolf puppy or whelp seven shillings and six pence, killed within the inhabited parts of this province, according to the directions of the said act:

But whereas it is found by experience that a greater encouragement for killing wolves would much better answer the intent of the said law and be of greater service to the inhabitants of this province:

[Section I.] Be it enacted, &c. [sic], That there shall be paid for all wolves killed in the manner directed and prescribed by the aforesaid act of assembly the further sum of five shillings for every grown dog or bitch wolf, and the further sum of two shillings and six pence for every wolf puppy or whelp, killed after the publication of this act, over and above the allowance mentioned in the said county-levy act, to be paid upon such proof made and in the manner therein directed.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and notes to the Acts of Assembly passed November 27, 1700, Chapter 69; and March 20, 1724-25, Chapter 284; and the Acts of Assembly passed October 1, 1779, Chapter 851; April 13, 1782, Chapter 972; February 2, 1802, P. L. 29; March 10, 1806, P. L. 411; March 16, 1819, P. L. 114; March 20, 1840, P. L. 175; February 10, 1841, P. L. 19; March 31, 1841, P. L. 136; March 18, 1842, P. L. 125; April 24, 1843, P. L. 349; April 4, 1844, P. L. 190; March 28, 1845, P. L. 242; March 15, 1847, P. L. 385; April 10, 1848, P. L. 459; April 9, 1849, P. L. 506; February 5, 1850, P. L. 41; March 17, 1853, P. L. 206; April 18, 1853, P. L. 482; April 7, 1854, P. L. 309; April 8, 1854, P. L. 864; March 27, 1862, P. L. 220; April 11, 1866, P. L. 756; April 12, 1866, P. L. 807; March 26, 1868, P. L. 498; March 18, 1869, P. L.

425; (the two acts of) April 10, 1873, P. L. 689, 771; June 10, 1881, P. L. 115; June 23, 1885, P. L. 141; May 13, 1887, P. L. 116; April 25, 1889, P. L. 54.

CHAPTER CCCIII.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT TO PREVENT SWINE FROM RUNNING AT LARGE."

Whereas by the said act the relief provided for persons suffering by hogs trespassing in their fields or inclosures is limited to the extent of fourteen miles from the navigable parts of the river Delaware: Now, forasmuch as the country is become more populous, and it appears necessary to provide the same remedy for the inhabitants living in the other parts of this province:

[Section I.] Therefore be it enacted, &c., That the same penalties, rules and orders enacted and directed to be observed by the aforesaid act within fourteen miles of the navigable parts of Delaware River shall, within one month after the publication hereof, be in force and extended throughout the province of Pennsylvania as fully and amply as if the same act were again herein repeated and enacted, any limitation in the aforesaid act for preventing swine running at large to the contrary in anywise notwithstanding.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Acts of Assembly passed November 27, 1700, Chapter 77; January 12, 1706-6, Chapter 158; and the Acts of Assembly passed March 13, 1780, Chapter 892; April 2, 1781, Chapter 934; March 27, 1784, Chapter 1089; March 7, 1800, Chapter 2120; April 1, 1805, P. L. 194; March 31, 1807, P. L. 97; April 9, 1807, P. L. 183; March 28, 1808, P. L. 163; February 6, 1810, P. L. 17; March 19, 1810, P. L. 90; February 25, 1814, P. L. 66; February 17, 1816, P. L. 69; March 28, 1820, P. L. 171; April 2, 1821, P. L. 206; March 30, 1822, P. L. 108; April 10, 1826, P. L. 274; April 1, 1831, P. L. 342; May 4, 1832, P. L. 480; March 21, 1833, P. L. 87; March 31, 1836, P. L. 304; March 21, 1842, P. L. 144; March 25, 1850, P. L. 268; (the two acts of) April 18, 1853, P. L. 530, 549; April 26, 1855, P. L. 316; April 15, 1857, P. L. 196; February 22, 1860, P. L. 68; April 11,

1862, P. L. 496; April 15, 1863, P. L. 501; April 9, 1864, P. L. 369; March 4, 1865, P. L. 271; March 21, 1865, P. L. 444; March 23, 1865, P. L. 675; February 9, 1866, P. L. 23; March 27, 1866 P. L. 332; (the five acts of) April 11, 1866, P. L. 562, 576, 703, 716, 737; June 26, 1866, P. L. 1114; April 3, 1867, P. L. 691; April 8, 1867, P. L. 940; (the four acts of) April 10, 1867, P. L. 996, 1021, 1071, 1082; April 13, 1867, P. L. 1224; March 12, 1868, P. L. 301; March 23, 1868, P. L. 514; April 1, 1868, P. L. 573; April 9, 1868, P. L. 779; April 11, 1868, P. L. 865; April 14, 1868, P. L. 1122; April 2, 1869, P. L. 672; April 9, 1869, P. L. 800; April 13, 1869, P. L. 892; April 17, 1869, P. L. 1125; February 10, 1870, P. L. 123; February 24, 1870, P. L. 230; March 17, 1871, P. L. 411; May 29, 1871, P. L. 1279; March 9, 1872, P. L. 295; March 18, 1873, P. L. 310; April 8, 1873, P. L. 565; April 10, 1873, P. L. 700; May 23, 1874, P. L. 230; (the two acts of) May 22, 1878, P. L. 96, 99; June 23, 1885, P. L. 142; May 24, 1887, P. L. 204; April 4, 1889, P. L. 27; April 26, 1889, P. L. 64; May 23, 1889, P. L. 277; May 23, 1891, P. L. 108; May 31, 1893, P. L. 185.

CHAPTER CCCIV.

AN ACT FOR LAYING A DUTY ON NEGROES IMPORTED INTO THIS PROVINCE.

We the representatives of the freemen of the province of Pennsylvania desire that it may be enacted:

[Section I.] And be it enacted by the Honorable Patrick Gordon, Esquire, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That for every negro which shall be imported, landed or brought into this province at any time after the publication of this act, other than such negroes as are actually shipped for sailors and shall continue in the service of the vessel they were brought in and not be exposed to sale in this province, and other than such negroes as shall be brought or sent into this province upon their master's immediate business and not to remain in the province and not for sale, there shall be paid for the uses hereafter mentioned the sum of two pounds, lawful money of America.

And that all masters of vessels and others who shall within

the time aforesaid bring into this province by land or water any negroes shall forthwith make entry and give or cause to be given, upon oath or affirmation, to the person hereinafter appointed to collect the said duty or [his] lawful deputy a true and just account of all the negroes so imported or brought in and to whom they respectively belong, which the said collector shall duly enter in a book for that purpose and thereupon shall grant a permit, for which the person obtaining the same shall pay the sum of six pence for every negro contained in the said permit for landing them.

[Section II.] And be it further enacted by the authority aforesaid, That every master of a vessel or other person who by this act are obliged or ought to make such entry as aforesaid and shall refuse or neglect to make the same accordingly, within the time and in the manner directed by this act, and being thereof convicted before any one justice of the peace or before the mayor or recorder of the city of Philadelphia for the time being, shall forfeit for every negro of which he ought to give an account to the collector of the duties imposed by this act the sum of thirty-five shillings, to be levied on the goods and chattels of the party offending by warrant under the hand and seal of the justice or of the mayor or recorder aforesaid before whom the party is convicted.

And that every such importer, owner or claimer of such negroes shall before landing of them pay down the said duty in ready money, or otherwise become bound to the collector for the time being with one or more sufficient sureties or procure some other sufficient person or persons to be bound to the said collector to answer and pay the said duty hereby imposed upon such negroes within six months next after the date of the said obligation, for which the collector shall receive of the party one shilling and six pence and no more.

And if any of the said negroes shall be imported, landed or brought in within the time aforesaid without making entry and obtaining a permit as aforesaid, or without paying or giving security for payment of the said duty in manner aforesaid, that then all the negroes so imported, landed or brought in, or the value of them if they cannot be found, shall be forfeited by the

importer or owner; one moiety (after the said duty and all charges of seizure and prosecution are deducted) shall go to the governor for support of government, and the other half (after the said deduction) to the said collector or such other person as will sue for the same in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed.

And that the said collector of the said duty arising by this act or his deputy shall have full power and authority by virtue hereof, without any further or other warrant, to enter on board any ship or vessel and into any house or place whatsoever where he shall suspect any of the said negroes to be concealed, and make searches and do all other matters and things which may tend to secure the true payment of the said duty and the due and orderly collection thereof; and in case of opposition or refusal, the said collector or his deputy, with the assistance of the sheriff, water-bailiff, constable or other officer, who without any further or other warrant are enabled and required under the penalty of five pounds (for every neglect or refusal in that behalf, to be recovered as aforesaid) to be aiding and assisting unto the said collector to seize the said negroes which shall be concealed or endeavored so to be as aforesaid, and for that end to break open doors and other things and to do and perform all other act and acts which by this act is and are required to be done for collecting, receiving and recovering the said duty and the penalties and forfeitures herein mentioned, or for making seizures of negroes landed or brought in without making entries and paying or securing the said duty, in as full and ample manner to all intents as any of the collectors or officers of the King's customs may or can do by the laws of Great Britain.

[Section III.] And be it further enacted, That all masters of vessels and others trading in the river Delaware and coming into any port or place of this province having negroes on board which by this act are liable to pay the said duty are hereby required to comply with the directions of this act as if such vessels came from sea directly, and that all persons obliged by this act to pay the said duty shall apply to the said collector

or his deputy without any notice given or request made by him for [their] so doing.

[Section IV.] And be it further enacted by the authority aforesaid, That in case any vessel shall arrive at any port, member, creek or landing-place in this province with any negro or negroes on board and there remain the space of twenty-four hours without making entry, under pretense of going to some other port or any other pretense whatsoever, the master or owner of said vessel shall give a true account of the number of negroes on board, and shall give security to the said collector that he shall not land any of the said negroes without entry made and permit obtained from the said collector under the penalty of seizure and forfeiture of the said negroes, to be recovered as aforesaid.

Provided always, That if any of the said negroes for which the said duty is paid or secured as aforesaid shall within the space of six months die or be exported or carried out to sea, then and in such case three-fourths of the said duty hereby imposed shall be abated for such of them as shall die or be exported as aforesaid, and on payment of the remaining one-fourth part the security given shall be delivered up and discharged, and the officer shall and may deduct five shillings per head for his care and trouble therein.

Provided also, That all such negroes for which such deduction shall be made shall actually (and *bona fide*) be forthwith shipped off or sent out of this province so as not to return again without complying with this act, under the penalty of seizure and forfeiture as aforesaid.

Provided also, That if any person or persons shall during the continuance of this act transport him or themselves with their families and negroes in order to settle in this province, and shall upon oath or affirmation declare before the said collector or his deputy, who are hereby empowered to administer the same, that such negroes so brought in are for their own service and not for sale, he or they shall not be liable to pay the said duty for such negroes, but shall forthwith give security to the said collector (which he is hereby empowered and required to take) by a bond of the full value of such negroes, conditioned

for the payment of the rates aforesaid in case such negroes shall be sold or the property of them directly or indirectly altered within the space of sixteen months after the date of such bond.

And to prevent the clandestine practice of landing or bringing in of negroes into the remote parts of this province by masters of vessels, merchants or otherwise without making entry of and paying the duty for the same according to the directions of this act:

[Section V.] Be it enacted by the authority aforesaid, That the constables of the respective townships, hundreds or wards within this province shall and are hereby obliged upon oath or affirmation to bring in a list to the respective courts of quarter-sessions for the city or county where they live of all the negroes that shall come or be brought into their respective townships or wards, and by whom the same negroes were imported or brought in, and in whose possession such negroes are.

[Section VI.] And be it further enacted, That Charles Read, of Philadelphia, merchant, shall be and is hereby appointed the present collector of the said duty hereby imposed and receiver of all fines, forfeitures and penalties hereinbefore appointed to be set, imposed and levied by virtue of this act, which the said collector, by himself or his lawful deputy, is hereby empowered to demand, collect, receive and recover of and from all persons importing, landing or bringing in any negroes during the continuance of this act, and shall from time to time take all bonds required to be given as aforesaid.

And the said collector shall keep true and fair accounts in writing of all such transactions relating to the premises, which he shall from time to time submit to the view and inspection of the provincial treasurer and lay the same before the assembly when required, and once in six weeks or oftener if required during the continuance of this act pay into the said treasurer's hands all such sums of money as he shall receive by virtue of this act, and shall deduct out of the same for his own use five per cent for all sums so by him paid, and shall further be allowed by the said treasurer in the final adjusting of his accounts all reasonable charges by him expended in the prose-

cution of the said seizures and recovery of any of the said fines, forfeitures and penalties, in pursuance of this act.

Provided always, That the said collector before he enter upon the execution of his office shall be sworn or attested before some justice of the peace, and shall, with one or more sufficient sureties, become bound in an obligation of five hundred pounds to the treasurer, conditioned for the due and faithful execution of his said office.

And in case of the death or removal of the said collector, the provincial treasurer for the time being shall appoint another in his stead to collect the said duty until some other person be appointed for that purpose by the general assembly of this province.

[Section VII.] And be it further enacted by the authority aforesaid, That if any person or persons shall at any time be sued or prosecuted for anything done in pursuance of this act, such person or persons so sued or prosecuted may plead the general issue and give this act and the special matter in evidence for their excuse or justification; and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer a discontinuance, or if a verdict pass against him in such action, suit or information, the defendant shall have treble costs, as in any cases where costs by law are given to defendants.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I. Repealed by the Act of Assembly passed March 14, 1761, Chapter 467.

CHAPTER CCCV.

AN ACT FOR CONTINUING AND ESTABLISHING A FERRY FROM THE LANDING-PLACE OF JOSEPH KIRKBRIDE OVER DELAWARE RIVER AT THE FALLS.

Whereas by an act of general assembly of this province, entitled "An act for establishing a ferry over Delaware at the

Falls,"¹ a ferry was established at the landing-place of Joseph Kirkbride at the falls aforesaid, to be kept by him the said Joseph Kirkbride from the publication of the said act for and during the term of eleven years; and the said act since being near expired, the said Joseph Kirkbride hath humbly requested that the said ferry be continued to him for a further term; and forasmuch as the said ferry by divers years' experience has been found convenient to accommodate travelers and others passing over the said river:

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the free-men of the said Province in General Assembly met, and by the authority of the same, That there shall be continued and kept a ferry at the aforesaid landing-place, which said ferry shall be kept by the said Joseph Kirkbride, his executors, administrators or assigns, who shall and are hereby required at all convenient times to maintain and keep the said ferry, with a good, sufficient boat and man or men to attend the same, as shall from time to time be needful, for the carriage of all persons, cattle, horses and goods which at the place aforesaid are to be carried over the said river.

And also the said Joseph Kirkbride and his successors shall at all times hereafter (during the continuance of this act), by him or themselves or servants, give constant and due attendance on his said ferry.

And the said Joseph Kirkbride and his successors shall have and receive [for] ferriage over at the place aforesaid of all persons (the proprietary and his lieutenant-governor and their attendants excepted) the rates and prices following: (That is to say)

For every single horse and rider, seven pence halfpenny; and when a greater number shall be carried together, six pence for each.

For every single person on foot, three pence; and when a greater number, two pence each.

¹ Passed May 31, 1718, Chapter 233.

For every single ox, cow or heifer, nine pence; and when a greater number, seven pence halfpenny for each.

For every single sheep, two pence; but when a greater number, one penny each.

For every single hog, four pence; and when a greater number, three pence for each and no more.

And for every loaded wagon, one shilling and six pence and no more; and for every empty wagon, one shilling and no more.

And for every sled, six pence and no more.

And if the said Joseph Kirkbride, his executors, administrators or assigns, shall not maintain and keep such sufficient boat as aforesaid with a sufficient and able hand, or shall not give constant and due attendance on the service of the said ferry, or shall exact or demand any greater or other fees for the carriage of any passengers, cattle, horses, hogs or sheep than is hereinbefore limited and appointed, then and in every such case he shall forfeit and pay the sum of five pounds, lawful money of this province, for every such offense, one moiety thereof to the governor for the support of the government of this province, and the other moiety thereof to the party grieved, who shall sue for the same by bill, plaint or information in any court of record of this province; and for the second offense the sum of ten pounds, to be recovered as aforesaid; and for the third offense, to be removed or displaced by the county court or other court of record where he shall be convicted of any of the said offenses mentioned in this act, wherein no essoin, protection or wager of law shall be allowed.

[Section II.] And be it further enacted by the authority aforesaid, That he the said Joseph Kirkbride, his executors, administrators and assigns, shall and may hold and enjoy the said ferry for and during the term of eleven years from the publication of this act if he or they shall so long well behave themselves therein; and that no person or persons shall hereafter for and during the said term of eleven years presume to carry any passengers, horses, cattle, sheep or hogs for any wages, hire or reward whatsoever over the said river Delaware from this province to New Jersey, within the space of two miles either afore or below the above said ferry, under the penalty

of five pounds forfeiture for every such offense, one moiety thereof to the governor for the support of the government of this province, and the other moiety thereof to such as shall from time to time be appointed to keep the said ferry as aforesaid.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed February 8, 1766, Chapter 533.

CHAPTER CCXVI.

AN ACT FOR ERECTING THE UPPER PARTS OF THE PROVINCE OF PENNSYLVANIA LYING TOWARDS SUSQUEHANNA, CONESTOGOE, DONEGAL, &c., INTO A COUNTY.

Whereas a great number of the inhabitants of the upper parts of Chester county have by their petition humbly represented to the goverhor and assembly of this province the great hardships they lie under by being at so great a distance from the town of Chester, where the courts of justice are held and the public offices kept; and how hard and difficult it is for the sober and quiet inhabitants of that part of the county to secure themselves against the thefts and abuses almost daily committed upon them by idle and dissolute persons, who resort to the remote parts of the province, and by reason of the great distance from a court or prison do frequently find means of making their escape:

For the removing which inconveniency and relief of the said inhabitants:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and singular the lands within the province of Pennsylvania lying to the northward of Octorara Creek and to the westward of a line of marked trees running from

the north branch of the said Octorara Creek northeasterly to the river Schuylkill, be erected into a county, and the same is hereby erected into a county, named and from henceforth to be called Lancaster county; and the said Octorara Creek, the line of marked trees and the river Schuylkill aforesaid shall be [the] boundary line or division between the said county and the counties of Chester and Philadelphia.

[Section II.] And be it further enacted by the authority aforesaid, That the said county of Lancaster shall have and enjoy all and singular the jurisdictions, powers, rights, liberties, privileges and immunities whatsoever which any other county within the province of Pennsylvania doth, may or ought to enjoy by any charter of privileges or the laws of this province or by any other ways or means whatsoever, excepting only in the number of representatives to serve in the general assembly of this province; in which case,

[Section III]. It is hereby provided and enacted by the authority aforesaid, That until it shall be otherwise ordered by the governor and assembly of this province the freemen and inhabitants of the said county qualified by the laws of this province to elect [shall] annually meet at or near the court-house of the said county at the same time the other counties of this province shall meet for such like purpose, or at such place where the courts shall be held, until such court-house shall be erected, and there proceed to choose inspectors and to elect four representatives or delegates to serve them in assembly in the same manner as by the said charter and laws of this province is directed; which said four representatives when so chosen shall be members of the general assembly of Pennsylvania and sit and act as such as fully and freely as any of the representatives for the other counties within this province do, may, can or ought to do.

[Section IV.] And be it further enacted by the authority aforesaid, That all taxes already laid within the bounds of the said county of Lancaster by an act of general [assembly] of this province which are not already paid shall be collected by the respective collectors within the bounds aforesaid and paid into the hands of the treasurer of Chester county, and that all

persons concerned in the levying, receiving and paying the said taxes shall have the same power and authority and be under the same penalties and restrictions for the collecting and paying the same as by the said acts by which the said taxes were assessed are expressed and directed, until the whole be collected and paid as aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That the several courts of general quarter-sessions of the peace and gaol delivery and the courts of common pleas for the said county of Lancaster shall be holden and kept on the first Tuesday in the months of February, May, August and November in every year at some proper place within the said county until a convenient court-house shall be built, and when the same is built and erected in the county aforesaid the said several courts shall then be holden and kept at the said court-house on the days before mentioned. And the election of representatives to serve in general assembly, assessors and all other officers of the said county who are or shall be appointed to be annually elected shall be made and elected at or near the said court-house at the same time and in the same manner as by the charter of privileges and laws of the province of Pennsylvania is directed to be done in the other counties of this province. And it shall be lawful for the freemen of the said county for the first year to choose three persons for commissioners for raising county rates and levies for the said county.

[Section VI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for Caleb Pierce, John Wright, Thomas Edwards and James Mitchell or any three of them to purchase and take assurance to them and their heirs of a piece of land situate in some convenient place in the said county to be approved of by the governor in trust and for the use of the said county, and thereon to erect and build or cause to be erected and built a court-house and prison sufficient to accommodate the public service of the said county for the ease and conveniency of the inhabitants.

[Section VII.] And be it further enacted by the authority aforesaid, That for the defraying the charges of purchasing the land, building and erecting the court-house and prison afore-

said, it shall and may be lawful to and for the commissioners and assessors of the said county or a majority of them, who are hereby required, to assess and levy so much money as the trustees or any three of them shall judge necessary for purchasing the land and finishing the said court-house and prison.

Provided always, The sum of money so raised do not exceed [three] hundred pounds, current money of the province.

[Section VIII.] Provided always, and be it further enacted by the authority aforesaid, That no action or suit now commenced or depending in the county of Chester against any person living within the bounds of the said county of Lancaster shall be stayed or discontinued by this act or by anything herein contained, but that the same actions already commenced or depending may be prosecuted and judgment thereupon rendered as if this act had not been made, and that it shall and may be lawful for the justices of Chester county to issue any judicial process, to be directed to the sheriff of Lancaster county, for carrying on and obtaining the effect of their suits, which sheriff shall be obliged to yield obedience in executing of the said writs and make due return before the justices of the court of the said county of Chester as if the parties had been living and residing within the same.

Passed May 10, 1729. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I. As to Section I, see the Acts of Assembly passed August 19, 1749, Chapter 377; January 27, 1749-50, Chapter 380; March 11, 1752, Chapter 392; February 18, 1769, Chapter 593; March 21, 1772, Chapter 644; March 4, 1785, Chapter 1136; February 10, 1801, Chapter 2177; February 16, 1813, P. L. 67; February 21, 1814, P. L. 59; April 15, 1834, P. L. 537; February 13, 1852, P. L. 51; April 2, 1860, P. L. 602.

As to Sections II and III, see the Acts passed March 11, 1751-52, Chapter 396; March 23, 1776, Chapter 717.

As to Section V, see the Acts passed September 13, 1785, Chapter 1175; April 2, 1804, P. L. 450; February 24, 1806, P. L. 334; March 10, 1810, P. L. 69; February 3, 1815, P. L. 22; April 14, 1834, P. L. 333; March 30, 1852, P. L. 207; January 19, 1863, P. L. 3; April 17, 1869, P. L. 1187; March 18, 1875, P. L. 28; August 7, 1883, P. L. (1885) 323.

As to Sections VII and VIII, see the Acts passed February 14, 1729-30, Chapter 310; February 6, 1730-31, Chapter 319; February 19, 1850, P. L. 89; February 13, 1857, P. L. 34.

CHAPTER CCCVII.

AN ACT LAYING A DUTY ON FOREIGNERS AND IRISH SERVANTS
IMPORTED INTO THIS PROVINCE.

Whereas an act of general assembly of this province was made in the eighth year of the reign of the late King George for preventing the importation of persons convicted of heinous crimes. And whereas it appears necessary that a further provision be made to discourage the great importation and coming in of numbers of foreigners and of lewd, idle and ill-affected persons into this province, as well from parts beyond the seas as from the neighboring colonies, by reason whereof not only the quiet and safety of the peaceable people of this province is very much endangered, but great numbers of the persons so imported and coming into this government, either through age, impotency or idleness, have become a heavy burden and charge upon the inhabitants of this province and is daily increasing. For remedy whereof:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all persons being aliens born out of the allegiance of the King of Great Britain and being of the age of sixteen years or upwards shall within the space of forty-eight hours after their being imported or coming into this province, by land or water, go before some judge or justice of the peace of the said province or before the mayor or recorder of the city of Philadelphia for the time being and there take the oaths appointed to be taken instead of the oath of allegiance and supremacy and shall also take the oath of abjuration, for which each person shall pay to the person administering the said oaths the sum of twelve pence and no more. And if any such alien (being of the age aforesaid) shall refuse or neglect to take the oaths aforesaid, it shall and may be lawful to and

for any judge, justice of the peace or other magistrate of this government forthwith to cause such person or persons to be brought before them, [and] oblige them to give security for their good behavior and appearance at the next court of general quarter-sessions of the peace to be held for the city or county where such magistrate resides.

And for the more effectual discouraging the practice of importing such persons as may affect the peace of and become chargeable to the inhabitants of this province from foreign states and kingd[oms] and from parts beyond the seas:

[Section II.] Be it enacted by the authority aforesaid, That every person being an alien born out of the allegiance of the King of Great Britain and being imported or coming into this province by land or water shall pay the duty of forty shillings for the uses in this act hereafter mentioned.

And that all masters of vessels, merchants or others who shall import or bring into any port or place within this province any Irish servant or passenger upon redemption, or on condition of paying for his or her passage upon or after their arrival in the plantations, shall pay for every such Irish servant or passenger upon redemption as aforesaid the sum of twenty shillings.

And for the more effectual discovering what aliens or Irish servants or passengers shall be hereafter imported into this province:

[Section III.] Be it enacted by the authority aforesaid, That all masters of vessels, merchants or others who shall bring into any port or place within this province any aliens or servants or persons upon redemption as aforesaid shall make such entry and in such manner and under the same penalties as in and by the aforesaid act of general assembly, entitled "An act for imposing a duty on persons convicted of heinous crimes,"¹ &c., is enjoined, required and provided; and that the justices to whom report shall be made by the collector of the said duties for the time being, according to the directions of the said act, shall have and are hereby vested with the same powers and au-

¹ Passed May 5, 1722, Chapter 248.

thorities for the effectual putting this act in execution as by the aforesaid act of assembly they are empowered and authorized for the executing the same.

And whereas it hath been a practice for masters of vessels, merchants and others trading into this province, with intent to avoid complying with the payments of the duties and giving the securities required in the cases of convicts by the aforesaid act of assembly, to land their servants and convicts in some of the adjacent governments, which servants and convicts have afterwards been secretly brought into this province:

Therefore, to prevent such practices for the future:

[Section IV.] Be it enacted by the authority aforesaid, That if any alien or servant or passenger upon redemption as aforesaid, being imported into the river [of] Delaware after the publication of this act and shall be found within this province within the space of twelve months after their being imported as aforesaid, whether such persons were landed within this government or elsewhere, it shall and may be lawful for the collector of the duties appointed by this act or his deputy for the time being, and for any justice of the peace or principal magistrate or magistrates of any city or county or town within this province, to apprehend, take up and examine upon oath or affirmation all such aliens, Irish servants or passengers as aforesaid and all other persons who may be supposed to be able to make any discovery of the time and manner of their being imported or coming into this province and from whence they came last, how long they have been come from parts beyond seas, of what country and in what vessel, and who was master or merchant of such vessel, and whether such vessel at the time of such person or persons being shipped or coming on board [was] bound to or designed for Pennsylvania, and whether such person or persons shipped themselves with intent to come into this province; and if upon examination it shall appear to any two justices of the peace within this province or to the mayor and recorder or either of them, with any one of the aldermen of the city of Philadelphia, that the said persons were shipped or took their passage for Pennsylvania, then the said magistrates before whom such examination is

taken shall demand and compel the persons of aliens immediately to comply with the directions of this act by taking the oaths or affirmations and paying the duties hereby imposed upon them. And shall and are hereby empowered and required to send for the master and merchant of such vessel or either of them in which the said persons were supposed to be imported and to examine such master or merchant upon their oaths or affirmations concerning the said aliens, Irish servants or passengers [as] aforesaid and their importation or coming into the province; and if it shall appear that the said persons so apprehended or any other aliens, Irish servants or passengers as aforesaid are come into this province who were shipped or taken on board to be imported into Pennsylvania and put on shore or permitted to go on shore by such master or merchant in any other government upon the river Delaware or upon any place or island within the said river without making report and complying with the directions of [this] act, then in such case the [said] master or merchant shall be obliged forthwith to give security for his appearance at the next court of [general] quarter-sessions of the peace to be held for the city or county where such examination is taken, and shall upon being legally convicted of such fraudulent practices forfeit the sum of twenty pounds for every person so by him or them imported or brought in as aforesaid and put or permitted to be put on shore (and afterwards within the space of twelve months being found within this province) without making such entry and paying the duties imposed by this act, one-half to the governor and the other to the collector or informer, to be recovered by bill, plaint or information in any court of record within this province, and shall further pay the same duties for such aliens, Irish servants or passengers upon redemption, as aforesaid, as if such persons had been imported into this province and report thereof made according to the directions of this act.

[Section V.] And be it further enacted by the authority aforesaid, That upon information given to the mayor and recorder of the city of Philadelphia for the time being or the mayor or recorder together with one of the aldermen of the

said city, or to any two justices of the peace of any county within this province, that any old persons, infants, maimed, lunatic or any vagabond or vagrant persons are imported, come or brought into this province, the said mayor, recorder and aldermen or two of them as aforesaid, or any two justices of the peace, shall cause such impotent or vagrant persons to be brought before them, and if upon examination they shall judge that such person or persons are likely to become chargeable to the city, town or county where they are found or were imported, it shall and may be lawful for the said mayor, recorder and aldermen or any two justices of the peace by warrant or otherwise to send for the master, merchant or other person who imported any such impotent or vagrant person or persons as aforesaid as are likely to [be-] come chargeable as aforesaid; and upon proof made of their being the importers or owners of such impotent or vagrant persons, who shall be judged to be likely to become chargeable as aforesaid, the said mayor, recorder and aldermen or any two of them as aforesaid, or any two justices as aforesaid, shall and may proceed against the said masters, owners or importers of such impotent and vagrant persons, as likewise against such impotent and vagrant persons so imported in the same manner, and to inflict the same penalties, and to make such warrants for apprehending and removing or sending away such impotent persons or vagrants, as the justice or justices of the peace in England are enabled and empowered to do in the case of vagrants by the statute of the twelfth of the late Queen Anne, chapter twenty-three.

Provided always, That if any person or persons shall apprehend him or themselves aggrieved with any such order or judgment of the justice or justices of the peace or other magistrates who shall make the same, [he or they] may traverse such order, and shall enter into recognizance to pay the costs and charges as in the aforesaid act of Parliament is directed and provided.

[Section VI.] And be it enacted by the authority aforesaid, That Charles Read, of Philadelphia, merchant, who is the present collector of the duties imposed upon convicts, &c., by the aforesaid act of assembly, shall be and is hereby appointed col-

lector of the duties imposed by this act, and is hereby empowered to receive, collect, demand and recover from all persons importing, landing or bringing in any [such] alien, Irish servants or persons upon redemption into any port or place within this province all and every the duties arising and growing due by virtue of this act in the same manner as he is empowered and directed to receive and collect the duties arising upon the importation of convicts by the aforementioned act of assembly, and shall pay the same unto the provincial treasurer of this province towards the support of government, deducting to himself ten per cent for receiving and paying. And in case of death or removal of the said collector the provincial treasurer shall appoint another in his stead to collect the duties aforesaid until another shall be appointed by the general assembly.

Passed May 10, 1729. Repealed by the Act of Assembly passed February 14, 1729-30, Chapter 314.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1729, and continued by adjournments to the fifteenth day of August, 1730, the following acts were passed:

CHAPTER CCCVIII.

AN ACT FOR REGULATING PEDDLERS, VENDUES, &c.

Whereas of late many idle and vagrant persons are come into this province, and under pretense of being hawkers or peddlers and carrying goods from house to house within this province to sell have greatly imposed upon many people as well in the quality as in the price of the goods, and under color of selling their wares and merchandises have entered into the houses of many honest and sober people in the absence of the owner or owners of the said houses and committed felonies and other misdemeanors, to the great prejudice of the inhabitants of this province:

For remedying of which inconveniencies and preventing such evil practices, and to the intent that no persons may be admitted to follow the business of hawkers or peddlers within this province but persons of known honesty and civil behavior:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That after the twenty-fifth day of March next no person or persons whatsoever shall follow or employ him, her or themselves in the business or employment of a hawker, peddler or petty-chapman, or in going from town to town or to other men's houses, and traveling with horse or horses, ass or asses, mule or mules, or otherwise, within the province of Pennsylvania (except as hereinafter is excepted), or carry to sell or expose to sale any goods, wares or merchandises within the province aforesaid, until such person

or persons shall have obtained a recommendation from the justices of the county court where he or she dwells certifying their opinion of the honesty of the person recommended and that he or she is a liver within this province, and intends to travel with one, two or more horse or horses or other beasts of burden or on foot, and shall thereupon have obtained a license from the governor and shall have given bond in the prothonotary's office of the said county court in His Majesty's name, with one surety at least, in any sum not exceeding forty pounds, conditioned that such person or persons shall be of good behavior during the continuance of the said license, and shall well and duly satisfy and pay all such taxes and duties as shall be legally assessed upon him, her or them within the said county where he, she or they shall obtain the said recommendation; for which license there shall be paid to the governor the sum of twenty-five shillings by every person obtaining a license to travel with a horse, ass, mule or other beast of burden, and the sum of fifteen shillings for every person licensed to travel on foot.

And if any person or persons, not being qualified as aforesaid, shall be found hawking, peddling or traveling from house to house to sell goods as a hawker, peddler or petty-chapman, he or she so offending, if traveling with one or more horses, shall forfeit the sum of fifteen pounds, and if traveling on foot, shall forfeit the sum of ten pounds, one moiety thereof to the governor for the support of government, and the other moiety to any person who will sue for the same by any action of debt, bill, plaint or information in any court of record within this province, wherein no essoin, protection or wager of law nor more than one imparlance shall be allowed; and that every person so trading, who, upon demand made by any justice of the peace, mayor, constable or other officer of the peace of any town, place or county within this province where he or she shall so trade, shall refuse to produce and show unto such justice or officer of the peace his or her license for so trading, to be granted as aforesaid, that then the person so refusing shall forfeit forty shillings, to be recovered in manner aforesaid, and for non-payment thereof shall suffer as a common vagrant.

[Section II.] Provided always, and it is hereby further enacted, That nothing herein contained shall extend or be construed to extend to hinder any person or persons from selling or exposing to sale any sort of goods or merchandises in any public market or fair within this province, or to hinder any persons from carrying about from town to town and from house to house any goods, wares or merchandises, being of the growth, product or manufacture of this province, but that such person or persons may do therein as they lawfully might have done before the making of this act, anything herein contained to the contrary notwithstanding.

[Section III.] And be it hereby further enacted, That if any dispute shall happen to arise concerning the said goods, wares or merchandises, the person or persons so carrying about or exposing the same to sale in manner aforesaid shall be obliged to declare upon oath or affirmation, before any justice of the peace or other magistrate of the county, town or place where he, she or they shall carry about or offer the same to sale, whether such goods, wares or merchandises be of the growth, product or manufacture of this province.

And whereas sundry persons for lucre of gain and in contempt of the laws of this province and the ordinances and good rules of the city of Philadelphia, have taken upon themselves to set up lotteries and also to sell and retail goods, wares and merchandises by small parcels by way of vendue at unseasonable times in the public streets of the said city of Philadelphia, in deceit of the buyers and to the great annoyance of its inhabitants by reason of the many idle and disorderly persons assembling themselves together in the night-time in the open streets at the said vendues or public sales: For the redressing of which abuses and the preservation of the peace within the said city and to prevent the many impositions which attend such practices:

[Section IV.] Be it enacted by the authority aforesaid, That if any person or persons shall presume or take upon him, her or themselves from and after the publication of this act, upon any pretense whatsoever, privately or publicly to set up, exercise or keep any lottery or lotteries within the province of

Pennsylvania and be thereof legally convict, he, she or they shall forfeit for every such offense the sum of one hundred pounds, one moiety thereof to the governor, and the other moiety to any person that shall sue for the same.

[Section V.] And be it hereby further enacted, That no person or persons whatsoever (except as hereinafter is excepted) shall after the publication of this act take upon him, her or themselves to sell or expose to sale by way of vendue or auction any wares, goods or merchandises within the city of Philadelphia unless such person or persons shall first be recommended by the mayor, recorder and aldermen of the said city of Philadelphia (in their open sessions) to the governor of this province, and shall have given security to the mayor of the said city for the time being for the use of the corporation in such sum as shall be agreed upon by the said mayor, recorder and aldermen, provided the same do not exceed the sum of five hundred pounds, for his or their honest and due execution of the office of vendue-master within the city of Philadelphia and for the due observation of the ordinances of the said city touching the regulating vendues or public sales or auctions within the same, and shall thereupon obtain the governor's license or commission according to the tenor of and for the time limited in the said recommendation for executing the said office of vendue-master. And there shall at all times hereafter be authorized and appointed in the city of Philadelphia a proper person qualified for executing the said office of vendue-master pursuant to the directions of this act. And if any person or persons shall be found selling or disposing of any goods, wares or merchandises within the city of Philadelphia aforesaid (excepting as hereinafter is excepted) by way of vendue or auction without being recommended and having given security as aforesaid, such person or persons so offending and being thereof legally convict shall for every such offense forfeit the sum of fifty pounds to the use of the corporation of the city of Philadelphia; and, moreover, it shall and may be lawful for the mayor, recorder or any of the aldermen of the said city, upon his or their own view or upon the testimony and information of one credible witness to them or any one of them given of any persons selling

any goods, wares or merchandises by way of vendue or auction as aforesaid (except as in this act is excepted) within the said city without such recommendation and bond given as aforesaid, to cause such person or persons so offending to be apprehended, and may oblige him, her or them to find sureties for his, her or their good behavior and appearance at the next court of quarter-sessions of the peace to be held before the mayor, recorder and aldermen of the said city. And it is further declared, that if the party so bound over shall, during the continuance of his, her or their recognizances, presume again to sell or expose to sale by way of vendue as aforesaid any wares and merchandises within the said city without being recommended and having given bond as aforesaid, such selling or exposing to sale shall be deemed and is hereby declared to be a breach of the good behavior.

[Section VI.] Provided always, and it is hereby further enacted, That nothing herein contained shall extend or be construed to extend to hinder any sheriff, constable or other officer to sell and dispose of by way of vendue any goods, wares or merchandises taken in execution and liable to be sold by order of law, or to hinder any person or persons from selling or exposing to sale by public vendue or otherwise any goods or chattels of any kind whatsoever taken and distrained for rent being in arrear, or to prohibit any lawful executor or executors, administrator or administrators, to expose to sale by way of public auction, vendue or otherwise any goods or chattels which were of their respective testator or intestates, but that all and every such person or persons may do therein as they might have done before the making of this act, anything herein contained to the contrary notwithstanding.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I. As to Sections I and III, see the Acts of Assembly passed January 22, 1774, Chapter 695; February 18, 1777, Chapter 743; June 19, 1777, Chapter 761; April 1, 1778, Chapter 797; November 26, 1779, Chapter 870; March 2, 1780, Chapter 883; September 23, 1780, Chapter 919; April 13, 1782, Chapter 975; December 9, 1783, Chapter 1063; March 30, 1784, Chapter 1090; March 18, 1789, Chap-

ter 1398; April 20, 1795, Chapter 1863; March 28, 1799, Chapter 2038; March 28, 1814, P. L. 352; March 24, 1818, P. L. 302; February 6, 1830, P. L. 39; April 2, 1830, P. L. 147; March 31, 1836, P. L. 297; April 16, 1840, P. L. 433; May 5, 1841, P. L. 342; August 2, 1842, P. L. 458; April 17, 1846, P. L. 364; March 8, 1847, P. L. 256; March 27, 1848, P. L. 270; April 9, 1849, P. L. 508; April 10, 1849, P. L. 619; April 16, 1849, P. L. 663; April 6, 1850, P. L. 373; April 25, 1850, P. L. 569; April 30, 1850, P. L. 634; May 3, 1850, P. L. 655; April 3, 1851, P. L. 320; (the two acts of) April 12, 1851, P. L. 440, 488; April 14, 1851, P. L. 569; April 15, 1851, P. L. 645; April 1, 1852, P. L. 235; April 8, 1852, P. L. 296; April 21, 1852, P. L. 386; (the two acts of) April 26, 1852, P. L. 431, 438; April 27, 1852, P. L. 467; May 1, 1852, P. L. 500; (the two acts of) May 4, 1852, P. L. 576, 596; March 26, 1853, P. L. 242; April 14, 1853, P. L. 422; April 15, 1853, P. L. 451; April 18, 1853, P. L. 542; May 2, 1853, P. L. 667; February 27, 1854, P. L. 122; April 13, 1854, P. L. 328; April 20, 1854, P. L. 418; March 29, 1855, P. L. 148; (the two acts of) April 5, 1855, P. L. 164, 174; April 27, 1855, P. L. 364; (the two acts of) May 7, 1855, P. L. 483, 486; March 25, 1856, P. L. 173; April 9, 1856, P. L. 278; April 18, 1856, P. L. 413; April 19, 1856, P. L. 464; April 8, 1857, P. L. 177; April 24, 1857, P. L. 301; May 16, 1857, P. L. 537; February 27, 1858, P. L. 61; March 15, 1859, P. L. 134; April 8, 1859, P. L. 428; February 15, 1860, P. L. 59; February 27, 1860, P. L. 90; February 28, 1860, P. L. 92; March 20, 1860, P. L. 203; March 30, 1860, P. L. 359; April 2, 1860, P. L. 524; April 14, 1860, P. L. 715; March 21, 1861, P. L. 171; March 22, 1861, P. L. 182; April 8, 1861, P. L. 258; (the two acts of) May 1, 1861, P. L. 443, 529; March 17, 1862, P. L. 129; March 22, 1862, P. L. 161; April 8, 1862, P. L. 314; April 14, 1863, P. L. 431; March 31, 1864, P. L. 166; April 9, 1864, P. L. 375; April 11, 1866, P. L. 668; May 10, 1866, P. L. 1082; May 18, 1866, P. L. 1097; (the two acts of) March 2, 1867, P. L. 348, 349; March 14, 1867, P. L. 459; March 16, 1867, P. L. 486; March 20, 1867, P. L. 503; March 29, 1867, P. L. 609; April 8, 1867, P. L. 50; (the three acts of) April 10, 1867, P. L. 1016, 1093, 1096; April 12, 1867, P. L. 1200; April 15, 1867, P. L. 1251; February 21, 1868, P. L. 106; March 26, 1868, P. L. 491; March 31, 1868, P. L. 531; April 10, 1868, P. L. 79; April 11, 1868, P. L. 812; (the three acts of) April 13, 1868, P. L. 905, 929, 982; (the two acts of) March 12, 1869, P. L. 331, 341; April 3, 1869, P. L. 703; April 10, 1869, P. L. 835; April 12, 1869, P. L. 867; (the two acts of) April 13, 1869, P. L. 890, 906; (the three acts of) April 17, 1869, P. L. 1127, 1139, 1180; May 8, 1869, P. L. 1259; February 23, 1870, P. L. 214; March 11, 1870, P. L. 382; March 14, 1870, P. L. 426; March 17, 1870, P. L. 475; March 28, 1870, P. L. 608; April 4, 1870, P. L. 833; April 18, 1870, P. L. 1233; March 15, 1871, P. L. 397; May 3, 1871, P. L. 516; May 10, 1871, P. L. 678; May 12, 1871, P. L. 778; May 24, 1871, P. L. 1116; April 9, 1872, P. L. 999; March 13, 1873, P. L. 285; March 14, 1873, P. L. 297; April 10, 1873, P. L. 635; (the two acts of) April 12, 1878, P. L. 15, 16; June 10, 1881, P. L. 109; May 23, 1887, P. L. 178; May 9, 1889, P. L. 150; April 15, 1891, P. L. 17; May 23, 1891, P. L. 111; June 9, 1891, P. L. 250.

As to Section IV, see the Acts of Assembly passed June 20, 1759, Chapter 446; (repealed by act of) February 17, 1762, Chapter 478.

As to Sections V and VI, see the Acts of Assembly passed January 22, 1774, Chapter 695; June 19, 1777, Chapter 761; November 26, 1779, Chapter 870; March 2, 1780, Chapter 883; September 23, 1780, Chapter 919; April 13, 1782, Chapter 975; December 9, 1783, Chapter 1063; March 19, 1789, Chapter 1400; March 27, 1790, Chapter 1494; February 26, 1791, Chapter 1529; April 10, 1799, Chapter 2073; January 25, 1816, P. L. 11; January 14, 1817, P. L. 17; March 20, 1818, P. L. 206; April 2, 1821, P. L. 259; April 2, 1822, P. L. 218; March 29, 1824, P. L. 169; April 1, 1826, P. L. 163; April 8, 1842, P. L. 256; March 3, 1843, P. L. 26; February 24, 1847, P. L. 164; April 9, 1859, P. L. 435; April 27, 1864, P. L. 639; May 19, 1871, P. L. 270; March 25, 1873, P. L. 405; June 26, 1873, P. L. (1874) 332; June 13, 1874, P. L. 283.

CHAPTER CCCIX.

AN ACT FOR THE BETTER ENABLING DIVERS INHABITANTS OF THE PROVINCE OF PENNSYLVANIA TO HOLD LANDS, AND TO INVEST THEM WITH THE PRIVILEGES OF NATURAL-BORN SUBJECTS OF THE SAID PROVINCE.¹

Whereas by the encouragement given by the Honorable William Penn, Esquire, late proprietary and governor of the province of Pennsylvania, and by the permission of his late Majesty, King George the First, of blessed memory, and his predecessors, Kings and Queens of England, &c., divers Protestants who were subjects to the Emperor of Germany, a prince in amity with the Crown of Great Britain, transported themselves and estates into the province of Pennsylvania between the years one thousand seven hundred and one thousand seven hundred and eighteen,¹ and since they came hither have contributed very much to the enlargement of the British Empire and to the raising and improving sundry commodities fit for the markets of Europe, and have always behaved themselves religiously and peaceably, and have paid a due regard and obedience to the laws and government of this province.

¹ The commissioners are aware that numerous inaccuracies of spelling in the names in this and other similar acts, most of which are purely phonetic, occur. But after consultation with several experts in such matters they deem it wise to adhere strictly to the text of the original roll, without attempting to suggest any corrections.

And whereas many of the said persons, to wit, Martyn Mylin, Hans Graaf, Christian Stoneman, Jacob Funk, Francis Neiff, Francis Neiff, Junior; George Kindick, John Burkholder, John Burkholder, Junior; Abraham Burkholder, Michael Bohman, John Hess, John Frederick, Christopher Preniman, Martin Harnist, Joseph Buckwalter, Felix Landas, Junior; Adam Preniman, John Funk, John Bohman, John Taylor, Henry Neiff, Michael Mire, Henry Bare, Peter Bumgarner, Melcor Huford, Melcor Erishman, John Brubaker, Jacob Nisley, Jacob Snevely, Jacob Goot, John Woolslegle, Jacob Mire, Christopher Sowers, Joseph Stoneman, Daniel Ashleman, Christian Peelman, John Henry Neiff, John Henry Neiff, Junior; Abraham Hare, John Ferie, Jacob Biere, Peter Yordea, Peter Leamen, John Jacob Snevely, Isaac Coffman, Andrew Coffman, Woolrick Rodte, Henry Funk, Roody Mire, John Mylin, Jacob Bheme, John Coffman, Michael Doneder, Charles Christopher, Andrew Shults, John Howser, Christian Preniman, Jacob Miller, black; Henry Carpenter, Emanuel Carpenter, Gabriel Carpenter, Daniel Herman, Christian Herman, Philip Fiere, Matthias Slaremaker, big John Shank, Jacob Churts, Jacob Snevely, Junior; John Woolrick Houver, John Croyder, John Leeghte, John Hampher, Martyn Graaf, Peter Smith, Peter Newcomat, Jacob Bare, Junior; John Henry Bare, Jacob Weaver, Henry Weaver, John Weaver, David Longanickar, George Weaver, Abraham Mire, Woolrick Houser, John Mire, Henry Musselman, Michael Shank, Jacob Miller, Jacob Miller, Junior; Martin Miller, Peter Aybe, Hans Goot, Christian Staner, John Jacob Light, Adam Brand, Christopher Franciscus, Caspar Loughman, Frederick Stay, John Line, John Shwope, Bastian Royer, Jonas Lerow, Simeon King, John Aybe and Everard Ream, all of Lancaster county in the said province; and John Negley, Bernard Ressor, John Wistor, John Frederick Ax, John Philip Bohm, Anthony Yerkhas and Herman Yerkhas, of the county of Philadelphia in the same province, in demonstration of their affection and zeal for his present Majesty's person and government, qualified themselves by taking the qualification and subscribing the declaration directed to be taken and subscribed by the several acts of Par-

liament made for the security of His Majesty's person and government and for preventing the dangers which may happen by Popish recusants, &c., and thereupon have humbly signified to the governor and the representatives of the freemen of this province, in general assembly met, that they have purchased [and do hold] lands of the proprietary and others His Majesty's subjects within this province, and have likewise represented their great desire of being made partakers of those privileges which the natural-born subjects of Great Britain do enjoy within this province, and it being just and reasonable that those persons who have *bona fide* purchased lands and who have given such testimony of their affection and obedience to the Crown of Great Britain should as well be secured in the enjoyment of their estates as encouraged in their laudable affection to and zeal for the English constitution:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, [Lieutenant-] Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That Martyn Mylin, Hans Graaf, Christian Stoneman, Jacob Funk, Francis Neiff, Francis Neiff, Junior; George Kindick, John Burkholder, John Burkholder, Junior; Abraham Burkholder, Michael Bohman, John Hess, John Frederick, Christopher Preniman, Martin Harnist, Joseph Buckwalter, Felix Landas, Junior; Adam Preniman, John Funk, John Bohman, John Taylor, Henry Neiff, Michael Mire, Henry Bare, Peter Bumgarner, Melcor Hufford, Melcor Erishman, John Brubaker, Jacob Nisley, Jacob Snevely, Jacob Goot, John Woolslegle, Jacob Mire, Christopher Sowers, Joseph Stoneman, Daniel Ashleman, Christian Peelman, John Henry Neiff, John Henry Neiff, Junior; Abraham Hare, John Ferie, Jacob Biere, Peter Yordea, Peter Leamon, John Jacob Snevely, Isaac Coffman, Andrew Coffman, Woolrick Rodte, Henry Funk, Roody Mire, John Mylin, Jacob Bheme, John Coffman, Michael Doneder, Charles Christopher, Andrew Shults, John Howser, Christian Preniman, Jacob Miller, black; Henry Carpenter, Emanuel Carpenter, Gabriel Carpenter, Daniel Herman, Christian Herman, Philip Fiere, Mathias Slaremaker, big John

Shank, Jacob Churts, Jacob Snevely, Junior; John Woolrick Houver, John Croyder, John Leeghte, John Hampher, Martyn Graaf, Peter Smith, Peter Newcomat, Jacob Bare, Junior; John Henry Bare, Jacob Weaver, Henry Weaver, John Weaver, David Longanickar, George Weaver, Abraham Mire, Woolrick Houser, John Mire, Henry Musselman, Michael Shank, Jacob Miller, Jacob Miller, Junior; Martin Miller, Peter Aybe, Hans Goot, Christian Staner, John Jacob Light, Adam Brand, Christopher Franciscus, Caspar Loughman, Frederick Stay, John Line, John Shwope, Bastian Royer, Jonas Lerow, Simeon King, John Aybe, Everard Ream, John Negley, Bernard Ressor, John Wister, John Frederick Ax, John Philip Bohm, Anthony Yerkhas and Herman Yerkhas be and shall be to all intents and purposes deemed, taken and esteemed His Majesty's natural-born subjects of this province of Pennsylvania as if they and each of them had been born within the said province, and shall and may and every of them shall and may within this province take, receive, enjoy and be entitled to all rights, privileges and advantages of natural-born subjects as fully to all intents, constructions and purposes whatsoever as any of His Majesty's natural-born subjects of this province can, do or ought to enjoy by virtue of their being His Majesty's natural-born subjects of His Majesty's said province of Pennsylvania.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I.

CHAPTER CCX.

AN ACT FOR LENDING THE SUM OF THREE HUNDRED POUNDS IN BILLS OF CREDIT FOR BUILDING A PRISON AND COURT-HOUSE IN LANCASTER COUNTY, &c.

Whereas by an act of assembly of this province the upper parts of the county of Chester are erected into a county and called by the name of Lancaster county. And whereas it is rep-

resented to this assembly that although it is necessary there should be a court-house and prison built for the service of the said county, yet the levying so great a sum of money as that service will require at one time upon the inhabitants thereof might prove burdensome, and therefore have requested that the trustees of the general loan office of this province of Pennsylvania may be enabled to lend out of the moneys now remaining in their hands, free from interest, to the said county the sum of three hundred pounds for the building the said court-house and prison, to be paid in again at the days and times and in the manner directed by an act of assembly of this province, entitled "An act for re-emitting and continuing the currency of bills of credit of this province."¹

And whereas it has been represented on the part of Samuel Hollingsworth, late treasurer of Chester county, that over and above the sum of money formerly borrowed by him out of the loan office of this province he hath occasion for the further sum of sixty pounds to enable him to discharge his engagements to the county of Chester, for which he is willing to give good land security, which sum the trustees conceive they are not warranted to lend by the said re-emitting act, the said Samuel being a former borrower without the authority of this assembly.

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the sum of three hundred pounds in bills of credit, now in the trustees' hands, be delivered by the said trustees unto John Wright, of Lancaster county, Esquire, for building the said court-house and prison, he giving his receipt for the same, and also giving security to the commissioners of the said county for the due application of the said money, which said sum of three hundred pounds shall be sunk by such proportions as other loans are lent out upon the said re-emitting act by taxes to be laid for

¹See Chapter 289.

that purpose on the inhabitants of Lancaster county in the same manner that county levies are usually raised and levied, until all the said bills of credit so as aforesaid received on the account and for the use aforesaid be sunk in the manner directed by the said re-emitting act, and that the receipt of the said John Wright shall be deemed and allowed to be a good discharge to the said trustees, their heirs, executors and administrators, for the sum mentioned in the said receipt.

[Section II.] And be it further enacted by the authority aforesaid, the better to enable Samuel Hollingsworth, late treasurer of Chester county, to discharge his engagements to the said county, That the said trustees may and are hereby warranted and enabled to lend to the said Samuel Hollingsworth upon good land security the further sum of sixty pounds in bills of credit, to be paid in with five per cent interest at the days and times and in the manner directed by the aforesaid act of assembly for re-emitting and continuing the currency of bills of credit in this province, anything in the said act or in any other act of assembly of this province to the contrary in anywise notwithstanding.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed February 6, 1730-31. Chapter 319.

CHAPTER CXXI.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT FOR PREVENTING CLANDESTINE MARRIAGES."

Whereas the good intention of an act of assembly of this province, entitled "An act for preventing clandestine marriages,"¹ hath been very much eluded by reason that no proper penalty is by the said law imposed upon [the] justice of peace or other persons marrying or joining in marriage any persons contrary to the intent and meaning of the said act:

¹ Passed October 28, 1701, Chapter 109.

For the remedying whereof:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no justice of the peace shall subscribe his name to the publication of any marriage within this province intended to be had between any persons whatsoever unless one [of] the persons at least live in the county where such justice dwells, and unless such justice shall likewise have first produced to him a certificate of the consent of the parent or parents, guardian or guardians, master or mistress of the persons whose names or banns are to be so published, if either of the parties be under the age of twenty-one years or under the tuition of their parents or be indented servants, if such parent, guardian, master or mistress live within this province or can be consulted with; and also that no person or persons, of what character or degree soever he be, presume to publish the banns of matrimony or intentions of marriage between any person or persons in any church, chapel or other place of worship within this province unless one of the parties at least live in the town, county or city where such publication shall be made, and unless the person or persons making or causing to be made such publication shall have received such certificate of the consent of the parent, guardian, master or mistress as is hereinbefore directed if the parties who ought to grant such certificate live within this province.

And if any justice of the peace, clergyman, minister or other person shall take upon him or them to join in marriage any person or persons, or if any justice of the peace shall be present at and subscribe his name as a witness to any marriage within this province without such publication being first made as aforesaid, such justice of [the] peace, clergyman, minister or other person taking upon him to sign, make or cause to be made any publication contrary to the directions of this act, or shall marry or join in marriage any person or persons not published as in the aforesaid act of assembly and by this act is directed, every justice of peace, clergyman, minister or other person so offend-

ing shall for every such offense forfeit the sum of fifty pounds, to be recovered in any court of record within this province by bill, plaint or information by the person or persons grieved if they will sue for the same, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed.

Provided, That nothing herein contained shall be deemed to extend to any person who shall be married in the religious society to which they belong, so as notice be given to the parent or parents, guardian or guardians, masters or mistresses of the person or persons so to be married, if such parent, guardian, master or mistress live within this province, at least twenty days before such marriage be solemnized; nor that this law shall extend to any person marrying by the authority of any lawful license, so as such consent or approbation in writing of the parent or parents, guardian or guardians, masters or mistresses as by this act is directed be first had, and the same consent be certified in the body of the said license, anything herein or in the aforesaid act of assembly contained to the contrary notwithstanding.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed October 28, 1701, Chapter 109, and the Acts of Assembly passed April 10, 1849, P. L. 549; May 8, 1854, P. L. 663; June 2, 1871, P. L. 289; June 23, 1885, P. L. 146; May 23, 1887, P. L. 170; May 1, 1893, P. L. 27; May 22, 1895, P. L. 99; June 18, 1895, P. L. 202.

CHAPTER CCCXII.

A SUPPLEMENTARY ACT TO AN ACT OF ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT AGAINST BUYING LAND OF THE NATIVES."

Whereas divers laws have from time to time been enacted in this province for preserving peace and cultivating a good understanding with the Indian natives thereof. And whereas,

notwithstanding the provision made by the said former act against purchasing land of the said natives without leave from the proprietor, the peace of the public has been and may further be endangered by the proceedings of some persons who, to elude the said act now in force against such practices, do, contrary to the intention thereof, pretend to take land of the natives on lease or for term of years, or to bargain with the Indians for the herbage or for the timber or trees, mines or waters thereof, and others who without any authority have settled upon and taken possession of vacant lands, as well to the manifest contravention of the royal grant of the soil of this province from the Crown to the proprietor and his heirs and the apparent damage of such persons who have right to take up lands heretofore granted to them within this province, as to the laying a foundation for disputes, misunderstandings and breaches with the said natives and others:

For the prevention whereof:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons, bodies politic or corporate, whatsoever shall at any time hereafter, for any cause or consideration or on any pretense whatsoever, presume to purchase, bargain, contract for, have or take of or from any Indian native or natives by any manner of gift, grant, bargain or sale in fee-simple or for life, lives, terms of years or any estate whatsoever, any lands, tenements or hereditaments within the limits of this province, or any manner of right, title, interest or claim in or to any such lands, tenements or hereditaments or in or to any herbage, trees, fishings, rivers, waters, mines, minerals, quarries, rights, liberties or privileges of or belonging unto any such lands, tenements or hereditaments without the order or direction of the proprietary or proprietaries of this province or of his or their proprietary commissioners or deputies, authorized and appointed or to be authorized and appointed for the management of the proprietary affairs of this province, for and in behalf of the proprietor or

proprietors thereof for the time being; and that every gift, grant, bargain, sale, written or verbal contract or agreement, and every pretended conveyance, lease, demise, and every other assurance made or that shall be hereafter made with any of the said Indian natives for any such lands, tenements or hereditaments, herbage, trees, rivers, waters, fishings, mines, minerals, quarries, rights, liberties or privileges whatsoever within the limits of this province, without the order and direction of the proprietor or his commissioners as aforesaid, shall be and is hereby declared and enacted to be null, void and of no effect to all intents, constructions and purposes in the law whatsoever; and that as well the grantee, bargainee, lessee, purchaser or person pretending to bargain or to have bargained or agreed with any Indian native as aforesaid, contrary to the true intent and meaning of this act, as all and every person or persons entering into and taking possession of any lands within the province of Pennsylvania not located or surveyed by some warrant or order from the proprietary or proprietaries, his or their agents or commissioners, as aforesaid, to the person or persons possessing the said lands or to some person or persons under whom they claim, and upon reasonable notice and request refusing to remove, deliver up the possession or to make satisfaction for such lands, shall and may be proceeded against in such manner as is prescribed by the several statutes of that part of the kingdom of Great Britain called England made against forcible entries and detainers, and that no length of possession shall be a plea against such prosecution.

Provided always, That nothing herein contained shall be deemed or construed to extend to any person or persons who have contracted or bargained with the proprietary or proprietaries, his or their agents or commissioners as aforesaid, for the lands in their possession, although the money agreed to be paid for the said lands be not paid according to such bargain or contract.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed November 27, 1700, Chapter 20; and the Acts of Assembly passed February 3, 1768, Chapter 570; February 18, 1769, Chapter 587.

CHAPTER CCCXIII.

AN ACT LAYING AN EXCISE ON ALL WINE, RUM, BRANDY AND OTHER SPIRITS RETAILED IN THIS PROVINCE.

Whereas an act of assembly of this province laying a duty or excise on several liquors, &c., for and towards the support of government, entitled "An act laying an excise on all wine, rum, brandy and other spirits retailed within this province,"¹ is now near expiring:

Therefore, to the end that provision be made for the payment of public debts and defraying the necessary charges of government:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, [Lientenant-] Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be throughout this province raised, levied, collected and paid for all wine, rum, brandy and other spirits retailed, sold, drawn or bartered by any person or persons whomsoever by any quantity under thirty-five gallons and delivered at one time after the fourteenth day of May, one thousand seven hundred and thirty, and before the fourteenth day of May, one thousand seven hundred and thirty-three, the rate or sum of six pence per gallon, and so proportionately for a greater or less quantity, to be assessed, rated and taxed in the manner hereafter directed in this act.

And for the more effectual discovery of the true quantity of rum and other strong liquors sold by retail within this province, as well as for preventing the abuses committed by selling rum and other strong liquors under pretense of permits or a justice's license:

[Section II.] Be it further enacted by the authority aforesaid, That no person or persons whatsoever shall sell or retail

¹ Passed December 12, 1723, Chapter 276.

any rum, wine, brandy or other spirits by any quantity less than thirty-five gallons until such person or persons shall have obtained a recommendation or license from the mayor, recorder and aldermen of the city of Philadelphia for the said city, or from the justices of the respective counties where such persons dwell, and shall have agreed and given bond for the sum that shall be set or agreed to be paid in lieu of the excise; which justices of the respective counties within this province, and the mayor, recorder and aldermen of the city of Philadelphia for the said city, in their respective courts of quarter-sessions of the peace, shall and are hereby required at the time when they shall license or recommend any person to sell rum or other strong liquors by way of retail within this province, or recommend to keep a public house [shall], upon the best judgment the said justices can make of the quantity of such liquors which [such] persons so to be licensed may be likely to retail, set a sum or assessment after the rate of six pence per gallon by way of excise, and in lieu of all excise, for such person so licensed or recommended to pay at the days and times in the said license or recommendation to be contained; for the payment of which sum the said persons so licensed shall, before he or they presume to sell any of the strong liquors aforesaid, give bond (with good security if the same be required) payable to the provincial treasurer in the same manner that bonds are appointed to be given by a law of this province, being a supplementary act to the act, entitled "An act that no public house, &c., be kept without license,"¹ a true account of which bonds so taken shall be kept by the persons taking the same; and the bonds shall be delivered to the collector of excise for the respective counties to which they belong; and the person taking the said bonds shall also deliver two lists of the persons' names so licensed or recommended, with the places of their abodes and the sums which such persons shall have given bond to pay, one to the collector of excise of each respective county and the other list to the provincial treasurer. And there shall be paid to the clerk of the quarter-sessions for his trouble in doing the ser-

¹ Passed August 26. 1721. Chapter 244.

vices required by this act the sum of three shillings and no more.

And in case the justices aforesaid shall neglect to set the rate by way of excise at the times and in the manner in this act directed to be paid by the persons by them licensed or recommended, then it shall and may be lawful for the collector of excise for such county where such neglect shall happen and he is hereby required to set a rate according to the best of his judgment on the person recommended to pay in lieu of the excise of six pence per gallon; and the person so rated shall thereupon give bond in the manner before directed for payment of the said sum or excise at the days and times in his or her said license or recommendation mentioned.

[Section III.] And be it further enacted by the authority aforesaid, That Charles Read, of Philadelphia, gentleman, shall be and is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that Nathan Watson, of Bucks county, yeoman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that Caleb Copeland, of Chester county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Chester; and that James Mitchell, of Lancaster county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Lancaster; which said several collectors are hereby severally empowered to demand, collect, receive and recover the excise appointed to be paid by this act of and from all and every person and persons within the respective counties and places for which they are appointed retailing or vending any of the liquors by this act liable to pay the duties aforesaid, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or that shall happen to arise or become due for anything done contrary to the true intent and meaning of this act.

And the said collectors are hereby required to keep true and fair accounts in writing of all their doings in the premises, which accounts they shall when thereunto required submit to the view and inspection of the provincial treasurer for the time being.

And the said collectors and each of them shall once in three months, or oftener if required, pay into the provincial treasurer all such sums of money as they shall receive by virtue of this act, deducting out of the same ten per cent for all sums by them received for their trouble and care in collecting and paying the same, and shall be further allowed in the final adjusting their accounts with the assembly of this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

And the said respective collectors before they enter upon the execution of their said respective offices are hereby required to give bonds with two sufficient sureties to the said treasurer for the time being in manner following: (That is to say) Charles Read, collector of the excise, &c., for the city and county of Philadelphia, in the sum of four hundred pounds; Nathan Watson, collector of the excise, &c., for the county of Bucks, in the sum of one hundred pounds; Caleb Copeland, collector of the excise, &c., for the county of Chester, in the sum of two hundred pounds; and James Mitchell, collector of the excise, &c., for the county of Lancaster, in the sum of one hundred pounds, for the faithful discharge of their respective duties and for their respective accounting and paying all such sums of money as they shall from time to time receive by virtue of this act.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever during the continuance of this act (persons recommended and licensed to keep a public house or houses, according to the directions of an act of general assembly of this government in that case made and provided only excepted) shall retail or sell any quantity less than one quart of rum, wine, brandy or other spirits, to be delivered at one time to one person, or shall sell any quantity under thirty-five gallons without being licensed and having given bond as aforesaid, such person or persons so offending shall for every offense forfeit the sum of five pounds over and above the duties or excise of liquors by them agreed for to be retailed, to be recovered in the manner as by this act is directed, the one moiety to the collector or person who will sue

for the same, and the other moiety to the poor of the city or township where the same is committed.

And for the better discovery of such frauds and abuses:

[Section V.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this province, upon application made by any one of the said collectors or other person, to summon any person or persons to appear before such justice at such time and place as he shall appoint to give evidence upon oath or affirmation for discovery of frauds and abuses committed against this act; and if any person or persons summoned as aforesaid shall neglect or refuse to appear and give evidence as aforesaid he, she or they so offending shall for every such offense be fined by the justice who issued out the said summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section VI.] And be it further enacted by the authority aforesaid, That all the forfeitures and offenses made, done and committed against this act or any clause or article therein contained shall be heard, adjudged and determined by such person and persons and in such manner and form as hereinafter is directed: (That is to say) all such forfeitures and offenses made and committed within the city of Philadelphia shall be heard, adjudged and determined by the mayor and recorder or by the mayor or recorder with any one alderman of the said city; and all such forfeitures and offenses made and committed within any of the counties within this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeitures shall be made or offense committed.

And if the party finds him or herself aggrieved by the judgment given by the said mayor, recorder, aldermen or justices, he or she may appeal to the justices of the peace of the next court of general quarter-sessions of the peace to be held for the respective city or counties where the judgment shall be given, which court is hereby empowered and authorized to hear and determine the same and whose judgment therein shall be final.

And the said mayor, recorder, aldermen and justices of the said city and counties of this province are hereby authorized

and strictly enjoined and required, upon any complaint or information exhibited and brought of any such forfeiture made and offense committed contrary to this act, to summon the party accused, and upon his or her appearance or contempt to proceed to the examination of the matters of fact, and upon due proof thereof, either by the confession of the party or by the oath or affirmation of one or more credible witnesses, to give judgment or sentence as before is directed, and to award and issue out warrants under their hands and seals for the levying of such forfeitures, penalties and fines as by this act is imposed for any such offenses committed upon the goods and chattels of such offender, and to cause sale to be made of such goods and chattels if they are not redeemed within five days, rendering to the parties the overplus (if any be), the charges of distress and sale being first deducted, and for want of sufficient distress to imprison the party offending until satisfaction be made.

[Section VII.] And be it further enacted by the authority aforesaid, That if the said magistrate, officer or any sheriff or constable shall be sued and prosecuted for anything done by them in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for his or their justification, and in case a verdict shall be given against the prosecutor or he shall become nonsuit or suffer a discontinuance the defendant shall recover treble costs, to be recovered as is usual in other cases.

[Section VIII.] And be it further enacted by the authority aforesaid, That all and every the constables of the respective townships or districts in this province shall and are hereby required, under the penalty of the forfeiture of twenty shillings for every refusal or neglect, to return on oath or affirmation unto the court of quarter-sessions in their respective counties the names and places of abode of all persons in their several townships or districts retailing or vending any liquors liable to pay the duties imposed by this act, and that the collector of such respective county may and shall have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising upon this act.

[Section IX.] And be it further enacted by the authority aforesaid, That Charles Read, Esquire, shall out of the first moneys that come into his hands on account of the excise of liquors retailed within this province answer and pay annually during the continuance of this act the sum of one hundred pounds to the officer appointed to pay the bounty on hemp raised within this province; and that the residue of the moneys that shall arise by virtue of this act or any other or former law of this province whereby an impost, duty or excise is laid upon liquors or any other law whatsoever and not otherwise appropriated shall be paid into the hands of the provincial treasurer for the time being, who shall retain five per cent for his trouble in receiving and paying the same as the assembly did or shall direct.

And whereas it has been the practice of divers persons who were not retailers of the said liquors formerly to draw off certain quantities of wine, rum and other spirits and distribute the same among their neighbors on purpose to elude the payment of excise:

For prevention whereof for the future:

[Section X.] It is hereby enacted and declared, That such drawing, distributing or sharing any of the said liquors out of any vessel or vessels containing thirty-five gallons and upwards under any pretense whatsoever shall be deemed and taken to be retaining within the meaning of this act.

[Section XI.] And be it further enacted by the authority aforesaid, That the law of this province now in force for laying an excise on all wine, rum, brandy and other spirits retailed within this province, together with all things therein contained, shall continue and be in force until the tenth day of June next after the publication of this act and no longer.

Passed February 24, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed January 19, 1733-34, Chapter 331.

CHAPTER CCCXIV.

AN ACT IMPOSING A DUTY ON PERSONS CONVICTED OF HEINOUS
CRIMES AND TO PREVENT POOR AND IMPOTENT PERSONS BEING
IMPORTED INTO THE PROVINCE OF PENNSYLVANIA.

Whereas many persons trading into this province have for lucre and private gain imported, sold or disposed of and daily do import passengers and servants into this province who by reason of age, impotency or idleness have become a heavy burden and charge upon the inhabitants thereof, and likewise do frequently import divers persons convicted of heinous crimes, who soon after their coming into this province do often commit many felonies, robberies, thefts and burglaries, to the great hurt of His Majesty's subjects trading to and inhabiting the same:

[Section I.] Be it therefore enacted by the Honorable Patrick Gordon, Esquire, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all masters of vessels, merchants or others who shall import, land or bring into any port or place belonging to this province at any time after the publication of this act any person in the condition of a servant or otherwise within the intent and meaning of this act, who hath been convicted of any murder, burglary, rape, sodomy, forgery, perjury or any felony at any time before such importation or coming into this province, shall before the said convicts be landed or put on shore pay the sum of five pounds for every such convict so imported or otherwise brought in, one moiety thereof to the governor for the support of government, and the other moiety to the collector appointed by this act or the informer, and shall further become bound, with good and sufficient security, to the treasurer of this province for the time being in the sum of fifty pounds for the good behavior of such convict person for the

space of one year next after his or her importation or coming into this province.

And whereas it hath been a practice for masters of vessels, merchants and others trading into this province, with intent to avoid complying with the payment of the duties and giving the security required by former acts of assembly of this province, made to prevent the importation of convicts and poor and impotent persons, to land their passengers, servants and convicts in some of the adjacent governments, which passengers, servants, impotent people and convicts have afterwards been secretly brought into this province:

Therefore, to prevent such practices for the future:

[Section II.] Be it enacted by the authority aforesaid, That if any such convict as aforesaid or servant or passenger, being poor and impotent persons, shall be imported into the river Delaware after the publication of this act and shall be found within this province at any time within the space of twelve months next after their being imported as aforesaid, whether such persons were landed within this government or elsewhere, it shall and may be lawful for the collector of the duties appointed by this act or his deputy for the time being and for any justice of the peace or principal magistrate or magistrates of any city or county or town within this province, to cause to be apprehended, taken up and to examine upon oath or affirmation all such convicts as aforesaid and passengers and servants, being poor and impotent persons, and all other persons who may be supposed to be able to make any discovery of the time and manner of their being imported or coming into this province and from whence they came last, how long they have been come from parts beyond the seas, of what country and in what vessel and who was master or merchant of such vessel, and whether such vessel at the time of such person or persons being shipped or coming on board was bound to or designed for Pennsylvania, and whether such person or persons shipped themselves with intent to come into this province.

And if upon examination it shall appear to any two justices of the peace within this province or to the mayor and recorder or either of them with any one of the aldermen of the city of

Philadelphia that the said persons were shipped or took their passages for Pennsylvania, then the said magistrates before whom such examination is taken shall demand and compel the persons, if convicts, immediately to comply with the directions of this act by paying the duties hereby imposed on them and giving the security directed in the case of convicts by this act; and shall be and are hereby empowered and required to send for the master and merchant of such vessel or either of them in which the said persons were supposed to be imported, and to examine such master or merchant upon their oath or affirmation concerning the said passengers, servants or convicts and their importation or coming into this province.

And if it shall appear that the said persons so apprehended, or any other persons, being convicts as aforesaid, were shipped or taken on board to be imported into Pennsylvania and put on shore or permitted to go on shore by such master or merchant in any other government upon the river Delaware or upon any place or island within the said river without making report and complying with the directions of this act, then in such case the said master or merchant shall be obliged forthwith to give security for his appearance at the next court of general quarter-sessions of the peace to be held for the city or county where such examination is taken, and if upon presentment or information he or they shall be legally convicted of such fraudulent practice, he, she or they so offending shall forfeit the sum [of] twenty pounds for every person so by him or them brought in as aforesaid and put or permitted to be put on shore, and afterwards at any time within the space of twelve months next after their being landed or put on shore shall be found within this province, without making such entry and paying the duties and giving the security required by this act, one-half to the governor and the other to the collector or informer, and shall further pay the same duties and give the same security for such convicts as aforesaid as if such persons had been imported into this province and report thereof made according to the direction of this act.

[Section III.] And be it further enacted by the authority aforesaid, That upon information given to the mayor and re-

recorder of the city of Philadelphia for the time being or the mayor or recorder together with one of the aldermen of the said city, or to any two justices of the peace of any county within this province, that any old persons, infants, maimed, lunatic or any vagabond or vagrant persons are imported, come or are brought into this province, the said mayor, recorder and aldermen or any two of them as aforesaid or any two justices of the peace of the respective counties where such persons shall be found shall cause such aged persons, infants or impotent or vagrant persons to be brought before them; and if upon examination they shall judge that such person or persons are likely to become chargeable to the city, town or county where they are found or were imported, it shall and may be lawful for the said mayor, recorder and aldermen or any two justices of the peace as aforesaid by warrant or otherwise to send for the master, merchant or other person who imported any such infant, lunatic, aged, maimed, impotent or vagrant person or persons as aforesaid as are likely to become chargeable as aforesaid; and upon proof made of their being the importers or owners of such infant, lunatic, aged, maimed, impotent or vagrant persons who shall be judged to be likely to become chargeable as aforesaid, the said mayor, recorder and aldermen or any two of them as aforesaid, or any two justices as aforesaid, shall and may compel the said master, merchant or importer of such infant, lunatic, maimed, aged, impotent or vagrant person or persons to give sufficient security to carry and transport such infant, lunatic, maimed, aged, impotent or vagrant person or persons to the place or places from whence such person or persons were imported, or otherwise to indemnify the inhabitants of this province from any charge that may come or be brought upon them by such infant, lunatic, maimed, aged, impotent or vagrant person or persons coming into or living within this province.

Provided always, That if any person or persons shall apprehend him or themselves aggrieved with any such order or judgment of the justice or justices of the peace or other magistrates who shall make the same, the person or persons so aggrieved may appeal to the next court of general quarter-sessions of the

peace to be held for [the] county or city where such order shall be made, whose judgment shall be final; but before such appeal be allowed of, the person or persons appealing shall enter into a recognizance with one good surety at least to pay the cost and charges of such appeal in case the said order shall happen to be confirmed.

And for the better discovery of such convicts and poor and impotent or idle and vagrant persons who shall hereafter be imported into and shall be likely to become chargeable to the inhabitants of this province:

[Section IV.] Be it further enacted by the authority aforesaid, That all masters of vessels, merchants and others who shall hereafter bring into any port or place belonging to this province by land or by water any men or women passengers or servants shall within the space of twenty-four hours after their arrival into any port or place of this province forthwith make entry, and give or cause to be given upon oath or affirmation to the collector of the said duty for the time being a true and just account of all the names of the servants and passengers so imported or brought in, which account the said collector shall duly enter and shall forthwith give notice thereof to the mayor of Philadelphia for the time being if such servants, passengers, &c., are designed to be landed at Philadelphia, or to any two or more of His Majesty's justices of the peace for the town or county where such servants or passengers shall be imported; and the said mayor [or] justices as aforesaid are hereby empowered and enjoined immediately, by warrant or otherwise, to call before them the said master, merchant or other person or persons importing such servant or servants or passengers as aforesaid, and to examine upon oath or affirmation the said master, merchant and all other persons who may be supposed to have any knowledge of the character and circumstances of such servants or passengers, and thereupon shall grant unto the master, merchant or owner or other person having the charge or care of any servant or servants or passengers so imported or brought into this province a certificate containing the names of all the servants or passengers which such justice shall judge fit to be landed or disposed of as servants and do not appear.

to them to have been formerly convicted of any [of the] crimes mentioned in this act, or such as do not appear to them to be such infants, lunatic, maimed, aged, impotent or vagrant persons as they shall judge likely to become chargeable to the inhabitants of this province; for which examination, permit and certificate there shall be paid to the mayor or justices aforesaid the sum of nine pence per head and to the collector the sum of nine pence for every person so imported, and there shall likewise be paid to the collector for each bond he shall take in pursuance of anything required to be done by virtue of this act the sum of two shillings and six pence and no more.

[Section V.] Provided nevertheless, and it is hereby further enacted, That if after such examination taken and certificate granted as aforesaid it shall be made appear that any of the said persons so landed or imported are convicts, the master, merchant or other person who imported such convict or convicts shall be liable to pay the same duty and give the same security as if no such examination had been taken or certificate granted, anything in this act contained to the contrary notwithstanding.

And if any servant or servants or convict or other person shall be imported or brought into and landed in any port or place within this province without making such entry as aforesaid in the manner before directed, and paying the duty and giving the security required by this act and within the time limited by this act for that purpose, and obtaining such certificate from the mayor or justices as aforesaid, every such master of a vessel, merchant and other person so importing, bringing in or landing such servants or other persons shall forfeit and pay for each servant or other person so imported, brought in or landed contrary to the directions of this act the sum of ten pounds, one-half after the charges of prosecution deducted to the governor for the support of government and the other half after such charges deducted as aforesaid to the collector or to such person or persons who will sue for the same in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed.

[Section VI.] And be it further enacted by the authority

aforesaid, That all persons obliged by this act to make entry as aforesaid shall apply to Charles Read, of Philadelphia, merchant, who is hereby appointed the present collector of the said duty hereby imposed, without any notice or request made by him for their so doing, and the said collector is hereby further empowered to receive, collect, demand and recover from all persons importing, landing or bringing in any servant or servants or other persons into any port or place within this province all forfeitures and penalties hereinbefore appointed to be set, imposed and levied by virtue of this act.

[Section VII.] And be it further enacted, That one act of general assembly of this province, entitled "An act for imposing a duty upon persons convicted of heinous crimes and imported into this province,"¹ &c., and one other act of general assembly, entitled "An act laying a duty on foreigners and Irish servants, &c., imported into this province,"² be and are hereby repealed and made void.

Provided always, That nothing herein contained shall extend or be construed to extend to discharge any sum of money or other duty payable by the aforesaid two recited acts of assembly or either of them, but that the aforesaid acts as to the recovery of any sum or sums of money, duty or penalty, forfeited, become due or payable before the first day of this instant January by virtue of or by breach of the aforesaid acts or either of them, do and shall continue and remain in full force until the said sums of money, duty or forfeitures be effectually levied, recovered and received.

And whereas by a law of this province for the better regulation of servants it is provided that no servant shall be assigned over to any person but in presence of one justice of the peace:

[Section VIII.] Be it further enacted by the authority aforesaid, That all sales or assignments of servants within the city of Philadelphia shall be made before the mayor of the said city for the time being, or, in case of his neglect or absence, then before the recorder of the said city, and before no other person or persons whatsoever, under the penalty of ten pounds, to be levied as in the said act is directed.

¹ Passed May 5, 1722, Chapter 248.

² Passed May 10, 1729, Chapter 307.

And the said mayor and recorder shall and are hereby enjoined to keep a register or registers of the names of such servants and by whom and to whom assigned and the term of years mentioned in the indenture with the date or time of assignment. And the said mayor shall at his going out of his mayoralty deliver the register or registers aforesaid to his successor to be carefully kept, to the end that all persons concerned may readily have access to the same.

Passed February 14, 1729-30. See Appendix XIII, Section I, and the Acts of Assembly passed September 2, 1738, Chapter 347; (repealed by the Act of Assembly passed February 3, 1742-43, Chapter 354, but revived by the repeal of that act by the King in council. December 17, 1746;) June 24, 1746, Chapter 371; August 19, 1749, Chapter 378; August 24, 1751, Chapter 391; March 27, 1789, Chapter 1414; April 15, 1851, P. L. 701; March 31, 1860, P. L. 382, and the immigration laws of the United States. As to Section VIII, see the note to the Act of Assembly passed November 27, 1700, Chapter 49.

CHAPTER CCCXV.

AN ACT FOR THE RELIEF OF INSOLVENT DEBTORS WITHIN THE PROVINCE OF PENNSYLVANIA.

Whereas in compassion to such unhappy persons as by losses and other misfortunes have been rendered incapable to pay their debts, it is provided by an act of assembly of this government that if any person be imprisoned for debt or fines within this province and have no sufficient estate to satisfy the same, the debtor shall make satisfaction by servitude, according to the judgment of the court; but there being no provision made by the said law to compel the debtor to render any account of his or her estate, great abuses have been committed by persons claiming the benefit of that law in concealing their estates or making them over in trust, so that no clear discovery could be made of the same by the creditors; and it being found by experience that the service of the debtor has in no wise answered the end proposed in making the said law:

Therefore, for the relief of such prisoners who shall be willing to satisfy their creditors as far as they are able:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, [Lieutenant-] Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person or persons charged in execution for any sum or sums of money not exceeding in the whole the sum of one hundred pounds, from and after the twenty-fifth day of March, in the year of our Lord one thousand seven hundred and thirty, shall be minded to deliver up to his, her or their creditors all his, her or their effects towards the satisfaction of the debts where-with he, she or they stand charged, it shall and may be lawful for such prisoner to exhibit a petition to any of the courts of law within this province from whence the process issued upon which he, she or they was or were taken or charged in execution, certifying the cause or causes of his, her or their imprisonment and an account of his, her or their whole real and personal estate, with the dates of the securities wherein any part of it consists, and the deeds or notes relating thereunto, and the names of the witnesses to the same, as far as his, her or their knowledge extends thereto. And upon such petition the court may and is hereby required by order or rule of court to cause the prisoner to be brought up and the several creditors at whose suit he, she or they stand charged as aforesaid, and all other his or her creditors that are or can be known to the court, to be summoned to appear personally or by their attorney in court at a day to be appointed for that purpose; and upon the day of such appearance if any of the creditors summoned refuse or neglect to appear, upon affidavit of the due service of such rule or order, or upon affidavit made that the creditor or creditors are not to be found, the court shall in a summary way examine into the matter of such petition and hear what can or shall be alleged on either side for or against the discharge of such prisoner, and upon such an examination the court may and are hereby required to administer or tender to the prisoner an oath or affirmation to the effect following:

I, A. B., do solemnly (swear in the presence of Almighty God) or (sincerely and truly declare and affirm) that the account by me delivered into this honorable court in my petition to this court doth contain a full and true account of all my real and personal estate, debts, credits and effects whatsoever which I or any in trust for me have or at the time of my imprisonment had, or am or was in any respect entitled to, in possession, remainder or reversion (except the wearing apparel and bedding for me or my family, and the tools or instruments of my trade or calling, not exceeding five pounds in value in the whole), and that I have not at any time since my imprisonment or before directly or indirectly sold, leased, assigned or otherwise disposed or made over in trust, for myself or otherwise, other than as mentioned in such account, any part of my lands, estate, goods, stock, money, debts or other real or personal estate whereby to have or expect any benefit or profit to myself or to defraud any of my creditors to whom I am indebted.

And in case the prisoner shall in open court take the said oath or affirmation, and upon such examination and his or her taking the said oath or affirmation the creditors shall be satisfied with the truth thereof, the court may immediately order the lands, goods and effects contained in such account, or so much of them as may be sufficient to satisfy the debts where-with he or she is or shall be charged [together with costs of suit],¹ and the fees due to the keeper of the gaol or prison from which the prisoner was brought, to be, by a short endorsement on the back of such petition signed by the prisoner, assigned to the creditors or one or more of them in trust for the rest of them [or to some proper person, to be by the said court appointed, in trust for all the creditors],¹ and by such assignment the estate, interest and property of the lands, goods, debts and effects so assigned shall be vested in the person or persons to whom such assignment is or shall be made, who may take possession of or sue for the same in his or their own name or names in like manner as assignees of commissioners of bankrupts, to which suit no release of the prisoner, his or her executors or administrators, or any trustee for him or her subsequent to such assignment shall be any bar; and immediately upon such

¹ Amended per order,—Andrew Hamilton, Speaker.

assignment executed the said prisoner shall be discharged out of custody by order of court, and such order shall be a sufficient warrant to the sheriff, gaoler or keeper of such prison to discharge the said prisoner if detained for the causes mentioned in such petition and no other, and he is hereby required to discharge and set him or her at liberty forthwith without fee; nor shall such sheriff or gaoler be liable to any action of escape or other suit or information upon that account. And the person or persons to whom the said effects shall be assigned, paying the fees to the gaoler or keeper of the prison in whose custody the party discharged was, shall and are hereby required to divide the effects so assigned among the creditors and all the persons for whom they shall be intrusted in proportion to their respective debts. But in case the person or persons at whose suit such prisoner was charged in execution or any other creditor shall not be satisfied with the truth of such oath or affirmation, but shall desire further time to inform himself of the matters contained therein, the said court may and shall remand the said prisoner, and direct the said prisoner and the person or persons dissatisfied with such oath or affirmation to appear at another day to be appointed by the said court some time within the term next following the time of such examination; and if at such second day so to be appointed the creditor or creditors dissatisfied with such oath or affirmation shall make default in appearing, or in case he or they shall appear but shall be unable to discover any estate or effects of the prisoner omitted in such his or her petition, or to show any probability of his or her having been forsworn, or to have declared falsely in the said oath or affirmation, then the said court shall immediately cause the said prisoner to be discharged upon such assignment of his or her effects in manner as aforesaid unless such creditor or creditors do insist upon his or her being detained in prison, and do agree by writing under his hand to pay and allow any sum of money that shall be assessed by the said court not exceeding three shillings per week unto the said prisoner, to be paid the second day of every week so long as he or she shall continue in prison at his, her or their suit, on failure of the payment of which weekly sum at any

time the said prisoner shall forthwith, upon application to the court or to any three justices of the said court in the vacation, be discharged by such order as aforesaid. But in case the said prisoner shall refuse to take the said oath or affirmation, or having taken the same shall be detected of falsity therein, he or she shall be presently remanded.

[Section II.] And be it further enacted by the authority aforesaid, That no person to be discharged by this act shall any time hereafter be imprisoned by reason of any judgment or decree obtained for payment of money only, or for any debt, damages, contempts, costs, sum or sums of money contracted, occurred, [sic] occasioned, owing or growing due before the time of his or her discharge, but that upon every arrest upon every such judgment or decree, or for such debts, damages or contempts, costs, sum and sums of money, it shall and may be lawful for any judge of the court where the process issued, upon showing the duplicate of such prisoner's discharge or discharges, to release and discharge out of custody such prisoner or prisoners as aforesaid; and the judge is hereby empowered so to do, so as every such prisoner or prisoners arrested or detained upon execution or mesne process do give a warrant of attorney to appear to every such action and to plead thereunto.

[Section III.] And be it further enacted by the authority aforesaid, That if any action of escape or any suit or action be brought against any justice or justices of the peace, sheriff, gaoler or keeper of any prison for performing their office in pursuance of this act, they may plead the general issue and give this act in evidence; and if the plaintiff be nonsuited or discontinue his action or verdict pass against him or judgment upon demurrer, the defendant shall have treble costs.

Provided, That the discharge of any person by virtue of this act shall not acquit any other person from such debt, sum or sums of money or any part thereof, but that all others shall be answerable for the same in such manner [as] before the passing of this act.

And provided, That this act shall not extend to discharge any person out of prison who shall stand chargeable at the suit of the Crown only.

[Section IV.] Provided always, and be it enacted by the authority aforesaid, That notwithstanding the discharges of the person of such prisoner or prisoners as aforesaid, all and every debt and debts due or owing from the said prisoner or prisoners and all and every judgment or judgments had and taken and decree obtained against him or her, shall stand and be good and effectual in the law to all intents and purposes against the lands, tenements, hereditaments, goods and chattels of the said prisoner so discharged as aforesaid, which he, she or they or any other person or persons in trust for him, her or them at the time of such discharge hath or have or at any time hereafter shall or may be anyways seized or possessed of, interested in or entitled to, either in law or equity, except his, her or their wearing apparel, bedding for his, her or their families and working tools and implements necessary for his, her or their occupations, not exceeding the value of five pounds in the whole; and it shall and may be lawful to and for such creditor or creditors of such prisoner or prisoners so discharged as aforesaid, his, her or their executors or administrators, to take out a new execution against the lands, tenements, hereditaments, goods and chattels of such prisoner or prisoners (except as are before excepted) for the satisfaction of his, her or their debts in such sort, manner and form as he, she or they might have done if the person or persons of such prisoner or prisoners had never been taken in execution, any act, statute, law or custom to the contrary in anywise notwithstanding.

[Section V.] Provided also, and be it further enacted by the authority aforesaid, That if any such person who shall take such oath or affirmation as aforesaid shall upon any indictment for perjury in any matter or particular contained in the said oath or affirmation be convicted by his or her own confession or by verdict of twelve men, the person so convicted shall suffer all the pains and forfeitures which may by law be inflicted on any person convicted of willful perjury, and shall likewise be liable to be taken on any process *de novo* and charged in execution for the [said] debt in the same manner as if he or she had never been discharged or taken in execution before, and shall never after have the benefit of this act.

[Section VI.] Provided also, and be it further enacted by the authority aforesaid, That if the effects so assigned shall not extend to satisfy the whole debts due to the creditors of the person or persons so discharged and the fees due to the gaoler, there shall be an abatement in proportion and such gaoler shall come in as a creditor for what shall be then due to him for his fees in proportion with the other creditors.

[Section VII.] And be it further enacted by the authority aforesaid, That where there are mutual debts between the debtor or debtors and his, her or their creditors, or if either party sue [or] be sued as executor or administrator where there are mutual debts between the testator or intestate and either party, one debt may be set against the other, and such matter may be given in evidence upon the general issue or pleaded in bar, as the nature of the case shall require; so as [at] the time of the pleading the general issue, where any such debt of the plaintiff, his testator or intestate, is intended to be insisted on in evidence, notice shall be given of the particular sum or debt so intended to be insisted on and upon what account it became due, or otherwise such matter shall not be allowed in evidence upon such general issue.

Provided, That where any rent shall be due from any prisoner or prisoners at the time of his or their respective discharges, no goods or chattels then lying or being in or upon the respective tenements or lands so in lease or liable to be distrained shall be removed or disposed of without the consent of the landlord or person to whom the rent is due, until the same, not exceeding one year's rent, be paid or satisfied; and that the landlord may use all lawful ways for the having and recovering his rent so as the same exceed not one year's rent by distress or otherwise as he might have had or could have done before the making of this act, anything herein contained to the contrary in anywise notwithstanding.

And provided also, That this act shall not bar any absent or distant creditor who had not notice of the prisoner's application to the court as aforesaid.

And whereas, by an act of assembly of this province, entitled "An act for better determining debts and demands under forty

shillings,"¹ power is given to any one justice of the peace to hear and determine any debt or demand under forty shillings, and upon judgment given to award execution against the body and goods or effects of the defendant; in pursuance of the execution of which law many poor persons have been taken and imprisoned a long time for very small sums of money, to the utter ruin of their families and without any real benefit to the creditors; and forasmuch as it will be a very great hardship and charge upon a poor prisoner confined for a small debt to oblige him or her to apply to be discharged in the manner directed by this act for persons imprisoned for a greater sum: Therefore, for the ease of such poor persons:

[Section VIII.] Be it enacted by the authority aforesaid, That where any person or persons shall be charged in execution for any sum of money not exceeding in the whole the sum of forty shillings besides costs of suit, such person or persons may by petition apply to any two justices of the peace of the county or city where he or she is imprisoned and therein set forth the truth of his or her case with a true account of his or her whole effects, which justices shall thereupon give reasonable notice to the plaintiff or creditor to appear before them at a certain day and place to show if that the said debtor or debtors have some effects that he or she will not discover and yield up for payment of the debt and costs, at which day the defendant or defendants shall make such oath or affirmation as in the case of other debtors is by this act directed to be taken, the words "five pounds" in the said oath only excepted, and the words "twenty shillings" in the case of a single person and the words "fifty shillings" in the case of a married person to be taken or inserted instead thereof. And if the plaintiffs or creditors shall, upon notice given as aforesaid, neglect or refuse to appear, or appearing and not making out to the said justices that the debtor hath omitted to discover some of his or her effects in his or her petition or to shew any probability of his or her being forsworn in the said oath or affirmation, then the said justices shall immediately cause the said prisoner to be discharged upon his or her making an assignment to the

¹ Passed May 28, 1715, Chapter 211.

plaintiff on the said petition of all the effects contained therein, the wearing apparel to the value of twenty shillings if a single person and to the value of fifty shillings if a married person only excepted; and the persons of the debtor or debtors shall never after be arrested for the same debt or costs.

And whereas many persons may suffer by the oppression and exactions of gaolers and other inferior officers in the execution of process for debt:

For prevention whereof:

[Section IX.] Be it further enacted by the authority aforesaid, That no sheriff, under-sheriff, bailiffs or other officer or minister whatsoever shall at [any] time or times hereafter convey or carry or cause to be conveyed or carried any person or persons by him or them arrested, or being in his or their custody by virtue or color of any writ, process or warrant, to any tavern, alehouse or other public victualing or drinking-house or to the private house of any such officer without the voluntary consent of the person so taken or arrested; nor charge, demand, take or receive, or cause to be demanded, taken or received, directly or indirectly, any other or greater sum or sums of money than is or shall be by law allowed to be taken or demanded for such arrest, taking, detaining or waiting till the person or persons so arrested or in custody shall have given in an appearance or bail, as the case shall require, or agreed with the person or persons at whose suit or prosecution he, she or they shall be taken or arrested, or until he, she or they shall be sent to the proper gaol belonging to the county, city, town or place where such arrest or taking shall be; nor shall keep the person or persons so taken or arrested in any tavern, alehouse or other public victualing-house or private house of any officer, with or without the consent of the persons so arrested, above the space of twenty days; nor shall exact or take any reward, gratuity or money for keeping the person or persons so arrested or in custody out of gaol or prison; nor shall take or receive any other or greater sum or sums of money for one or more night's lodging or for a day's diet or other expenses than what shall be allowed as reasonable in such cases by some order or orders to be made by the justices of the respective courts of common

pleas within this province at some court to be held for such county, city, town or place where such arrest or taking shall [be], who are hereby authorized and required with all convenient expedition to make some standing order or orders for ascertaining such expenses within their respective counties or cities.

[Section X.] And be it further enacted by the authority aforesaid, That every sheriff, under-sheriff, gaoler, keeper of any prison or gaol or other person or persons whatsoever to whose custody or keeping any one so arrested or taken shall be committed on any pretense shall permit and suffer him, her or them so arrested or taken, at his, her or their will and pleasure, to send for and have any beer, ale, victuals or other necessary food from what place they please; and also to have and use such bedding, linen and other things as he, she or they shall think fit, without purloining or detaining the same or any part thereof, or enforcing or requiring him, her or them to pay for the having or using thereof, or putting any manner of restraint or difficulty upon him, her or them in using thereof or relating thereto.

[Section XI.] And be it further enacted by the authority aforesaid, That no fees shall be taken by any gaoler or keeper of any gaol or prison within this province for any prisoner's or prisoners' commitment or coming into gaol or chamber-rent there or discharge from thence or other expenses than what shall be allowed by law, until such fees shall be settled and established by the justices or judges of the respective county courts and other courts of record within this province for and in respect of the counties and courts to which they belong, who are hereby directed, empowered and required to settle and establish the same as soon as conveniently may be. And tables shall be made of the respective orders, rules and fees so settled and established and signed by the justices or judges of the respective county courts, courts of general quarter-sessions of the peace and other courts of record for the respective gaols within their respective jurisdictions, and signed by the mayor, recorder and aldermen for and in respect of the courts of record held before the mayor, recorder and aldermen of the city of

Philadelphia; which rules, orders and fees may from time to time be enlarged, reformed or altered and amended as occasion shall require by the judges of the supreme court by rules and orders of the said court to be signed by the judges of the same; and duplicates shall be transmitted to the respective county courts and other courts of record for which they are made to be entered of record and enrolled without any fee to be taken for the enrollment thereof.

[Section XII.] And be it further enacted by the authority aforesaid, That the several courts of common pleas and other courts of record in the several counties and cities of this province shall, at every time of the sitting or meeting of such court or courts, inquire whether such tables of fees and such rules as aforesaid be hung up and remain public and easy to be resorted to in the several prisons to the said courts respectively belonging and whether the same be duly complied with and observed, and cause eight days' notice to be given to the prisoners in the said prison of the time appointed for such inquiry, and shall inform themselves touching the same in the best manner they can and supply and redress whatever they find neglected or transgressed. And that the judges of the courts of oyer and terminer and general gaol delivery shall likewise make inquiry of the matters aforesaid at all such courts and sessions of gaol delivery within this province for and in respect of the gaols and prisons within their respective jurisdictions, and shall expressly give it in charge to the grand jury to inquire concerning the same.

And for the more speedy punishing gaolers, bailiffs and others employed in the execution of process for extortions or other abuses in their respective offices and places:

[Section XIII.] Be it further enacted by the authority aforesaid, That upon the petition of any prisoner or person, being or having been under arrest or in custody, complaining of any exaction or extortion by any gaoler, bailiff or other officer or person employed in the keeping or taking care of any gaol or prison, or the arresting or apprehending of any person or persons by virtue of any process or warrant, or any other abuse whatsoever committed or done in their respective offices or

places unto any of His Majesty's courts of record within this province from whence such process issued or under whose power such gaol or prison is, or to any two justices of such court in the time of vacation, or to the judges of the supreme court or any of them in their respective sessions of oyer and terminer or general gaol delivery, it shall and may be lawful for the said court, justices or judges to hear and determine the same in a summary way, and to make such order thereupon for redressing such abuse and punishing of such officer or person complained of and making reparation to the party or parties injured as they shall think just, together with the full costs of such complaint; and all orders and determinations which shall be made by the said courts or of the said justices or judges respectively in such summary way as herein prescribed shall have the same effect, force and virtue to all intents and purposes as any other orders of the said respective courts, and obedience thereunto may be enforced either by attachments ordered by the said respective courts or by attachments to be issued under the seal of the said courts by direction of the justice or judge making such order.

And for the preventing prisoners being imposed upon by being under a necessity of spending their money in prisons where strong liquors are sold:

[Section XIV.] Be it enacted by the authority aforesaid, That no gaoler or keeper of any gaol or any sheriff or under-sheriff having the care or keeping of any gaol or prison within the province of Pennsylvania shall keep or suffer to be kept any tavern, public house or alehouse, or shall utter or sell to any person or persons under arrest or in prison any wine, rum, beer, ale, cider, punch or any other strong liquors other than what shall be allowed by the justices as aforesaid for a day's diet or expenses by such order to be made as aforesaid on pain of being removed from his or their office or offices of sheriff, under-sheriff or gaoler, upon complaint made to be heard and determined upon petition in a summary way as aforesaid before the justices in the respective courts of common pleas for the county to which such gaoler, sheriff or under-sheriff having the keeping of any gaol does belong.

And for the more effectual preventing oppressions to His Majesty's subjects within this province:

[Section XV.] Be it further enacted by the authority aforesaid, That no sheriff within this province shall continue in his office of sheriff or occupy the said office above three years, and that no man who hath been sheriff or under-sheriff of any county by the space of three years shall be chosen sheriff of that county again within three years next ensuing upon pain of forfeiting two hundred pounds by him who shall occupy his office contrary to the effect and intent of this act.

[Section XVI.] And be it further enacted by the authority aforesaid, That one act of general assembly of this province, entitled "An act about arrests and making debtors pay by servitude,"¹ be and is hereby repealed and made void.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I. As to Sections I-VIII, see the Acts of Assembly passed February 6, 1730-31, Chapter 321; February 2, 1765, Chapter 518; September 20, 1765, Chapter 531; February 24, 1770, Chapter 611; March 21, 1772, Chapter 645; January 22, 1774, Chapter 693; (the Ordinance passed) August 1, 1776, Chapter 727; (the Constitution of 1776, Plan of Government, Section XXVIII;) January 2, 1778, Chapter 777; December 20, 1784, Chapter 1121; March 30, 1785, Chapter 1148; September 16, 1785, Chapter 1183; February 28, 1787, Chapter 1261; March 15, 1787, Chapter 1275; March 27, 1789, Chapter 1411; March 27, 1790, Chapter 1496; (the Constitution of 1790, Article IX, Section XVI;) September 23, 1791, Chapter 1583; February 16, 1792, Chapter 1605; April 4, 1792, Chapter 1636; March 22, 1793, Chapter 1653; April 3, 1794, Chapter 1724; April 18, 1794, Chapter 1746; April 4, 1798, Chapter 1999; April 7, 1807, P. L. 167; March 26, 1808, P. L. 138; March 13, 1812, P. L. 114; December 21, 1812, P. L. (1813) 4; February 18, 1813, P. L. 81; (repealed by the Act of Assembly passed March 26, 1814, P. L. 216.)

As to Sections IX-XIII, see the Acts of Assembly passed March 26, 1814, P. L. 216; July 16, 1842, P. L. 391; April 11, 1856, P. L. 314; March 5, 1858, P. L. 70; March 24, 1858, P. L. 143; March 26, 1860, P. L. 262; March 31, 1864, P. L. 168; March 23, 1865, P. L. 690; March 2, 1866, P. L. 129; March 16, 1866, P. L. 211; March 30, 1866, P. L. 397; February 14, 1867, P. L. 199; April 9, 1867, P. L. 950; April 23, 1872, P. L. 527; February 20, 1873, P. L. 139; February 24, 1873, P. L. 154; June 11, 1885, P. L. 109.

As to Section XIV, see the Acts of Assembly passed April 5, 1790, Chapter 1516; April 4, 1807, P. L. 133; March 29, 1842, P. L. 192;

¹ Passed January 12, 1705-6, Chapter 153 and the note attached.

(the Resolution passed) March 17, 1843, P. L. 379; March 8, 1870, P. L. 356.

As to Section XV, see the note to the Act of Assembly passed January 12, 1706-6, Chapter 161; and see the Acts of Assembly passed February 6, 1730-31, Chapter 321; (the Constitution of 1776, Plan of Government, Section XXXI;) September 13, 1785, Chapter 1175; September 29, 1789, Chapter 1452, and the Constitution of 1790, Article VI, Section I; 1838, Article VI, Section I; 1873, Article XIV, Sections I and II.

CHAPTER CCCXVI.

AN ACT FOR CONTINUING THE ENCOURAGEMENT FOR RAISING GOOD HEMP WITHIN THIS PROVINCE AND IMPOSING CERTAIN PENALTIES ON PERSONS MANUFACTURING OR WORKING UP UNSOUND AND UNMERCHANTABLE HEMP INTO CORDAGE AND CABLES.

Whereas by two several acts of assembly passed in the eighth and eleventh years of his late Majesty's reign the encouragement of one penny per pound was given for all good, sound, merchantable hemp raised within this province, and by another act made in the thirteenth year of his said late Majesty's reign a greater encouragement of one penny halfpenny per pound was given in lieu of the aforesaid one penny per pound for all good merchantable water-rotted hemp raised within this province, which said act is now near expired. And whereas it is found by experience that the aforesaid bounty granted by the last-recited act hath much encouraged many people within this province to apply themselves to the raising of good hemp and carefully to water-rot the same, which might be of very great service, as well for the use of the inhabitants of this province as for exportation, if due care were taken to prevent the mixing up bad hemp with the good hemp manufactured in this province.

Therefore that the good purposes by the aforesaid acts may be more fully answered:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, [Lieutenant-] Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the represen-

tatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be paid out of the public revenue of this province by the officer hereinafter appointed to put this act in execution, in lieu of all other bounties and encouragements granted by former acts of assembly, the sum of one penny halfpenny for every pound of good, sound, well-ordered and merchantable water-rotted hemp fit for exportation that is or shall be raised within this province from and after the time of the publication of this act until the first day of May, which will be in the year one thousand seven hundred and thirty-three.

And for the better discovery of the quality of such hemp for which a bounty by this act is payable, as well as for preventing the bringing to market or selling or exposing to sale any unsound hemp not being fit for ship cordage:

[Section II.] Be it further enacted by the authority aforesaid, That every person or persons importing any hemp by land or water into the county or city of Philadelphia shall bring the same directly to the public beam at the workhouse in Philadelphia, and shall before the same be sold, agreed for or unloaded (except for bringing the same from the water-side) give notice thereof to the person appointed by this act to search and view hemp, on penalty of forfeiting all such hemp as shall be imported and unloaded or sold or agreed for to any person or persons whatsoever before the same be searched, viewed and allowed of as by this act is directed.

[Section III.] And be it further enacted by the authority aforesaid, That upon such notice given to the said officer he shall forthwith give his attendance at the said workhouse, and then and there shall search, view and weigh all the hemp brought thither, and shall allow and pay to the owner or importer of such hemp or other person having right to receive the same the sum of one penny halfpenny for every pound of good, clean, sound, well-ordered, merchantable water-rotted hemp, being of the growth and manufacture of this province; he, she or they claiming the said bounty having first taken an oath or affirmation (to be administered by the officer appointed to put this act in execution, who is hereby empowered to ad-

minister the same), that the said hemp is of the growth of this province, and that the same was water-rotted according to the true intent and meaning of this present act, and that the same hath not nor any part thereof hath ever before been tendered to the said officer or any bounty paid or allowed for the same; and if upon such search or trial of any hemp, whether the same be dew-rotted or water-rotted, any dispute shall arise between the officer and possessor of such hemp concerning the soundness and goodness of the said hemp and whether the same be fit for ship cordage the said officer shall seize or secure the same, and thereupon shall apply himself to some justice of the peace of the city or county of Philadelphia, who is hereby required to issue forth his warrant to two persons who are supposed to have the best skill in well-dressed and merchantable hemp, thereby requiring the said two persons upon their oath or affirmation, to be administered to them by the officer appointed to put this act in execution, who is hereby empowered to administer the same, to view, search and try the goodness or unsoundness of the said hemp so seized or secured, and also to value and appraise the same if need shall be. And if they, upon their qualification as aforesaid, shall judge the said hemp unfit to be wrought up into ship cordage, they shall certify the same under their hands, together with the quantity and price at which they shall value the said hemp; and thereupon the officer appointed in this act (upon the owner's paying or securing the payment of such charges as shall be allowed by the magistrate who granted the warrant for the trial and appraisement of the said hemp, which shall not exceed the sum of five shillings for any quantity under five hundred pounds weight nor ten shillings for any greater quantity) shall give an order to the owner of the said hemp upon the treasurer of the county of Philadelphia for the appraised value, which order the said treasurer is hereby required to pay or satisfy to the bearer thereof out of the moneys belonging to the county in his hands. And the officer is hereby further required to deliver the said hemp to the overseer or keeper of the workhouse of the county and city of Philadelphia and take his receipt for the same, which overseer shall account to the commissioners

and assessors of the said county for the said hemp when he shall be thereunto required.

And whereas it is found by experience that dew-rotted hemp, though seemingly strong and sound and may be fit for ship cordage, yet when made up into cables or hawsers does not prove of a sufficient strength and will soon rot by continuing in the water; and it being too often the practice of persons keeping rope-walks within this province to work up dew-rotted and unsound hemp with water-rotted hemp into cables and hawsers, to the great loss and disappointment of the merchants and owners of vessels using the same, which hath brought a great discredit upon the hemp manufacture of this province:

For the preventing of which fraudulent practices for the future:

[Section IV.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the officer appointed by this act, as often as he shall think fit and whensoever he shall be thereto required, to enter into and search any store, warehouse or other workhouse and rope-walk belonging to any person selling, working up or manufacturing any hemp into cordage, cables or hawsers within the city and county of Philadelphia, and there to search and view all the hemp he shall find; and if upon search the said officer shall find any rotten or unsound hemp and not fit to be wrought up into ship cordage, the said officer shall seize the same, which hemp shall be forfeited, one moiety thereof to the officer and the other moiety to the use of the poor of the city or county where the same shall be seized.

And that every such rope maker or person keeping a rope-walk shall take an oath or affirmation that he hath not, since the publication of this act, wrought or caused or suffered to be wrought nor will suffer to be wrought or made up into cables or hawsers or into any sort of spun yarn to be wrought up into cables or hawsers, any hemp, mixed or unmixed, except what is or shall be good, sound water-rotted hemp, which oath or affirmation the said officer appointed by this act is hereby empowered and required to administer once every year and oftener if the said officer shall judge it needful.

[Section V.] And be it further enacted by the authority aforesaid, That if any rope maker or other person shall be found within this province working up or making into cables or hawsers or into spun yarn or thread to be used in cables or hawsers any dew-rotted or unmerchantable hemp, whether the same be mixed or unmixed with good water-rotted hemp, or shall, without notice first given to the officer appointed by this act, tar or work up any spun yarn or thread into cables or hawsers before the same spun yarn and thread be viewed by the said officer, and being thereof legally convict, the person or persons so working or making or causing to be wrought up, spun or made any dew-rotted or unsound hemp, mixed or unmixed, in cables or hawsers or into spun yarn to be used in cables or hawsers, or shall tar or work up any spun yarn or thread into cables or hawsers before the same be viewed as aforesaid, shall for every offense forfeit the sum of five pounds, one moiety to the use of the poor and the other moiety to the person or persons who will inform and sue for the same.

[Section VI.] And be it further enacted by the authority aforesaid, That Peter Lloyd, of Philadelphia, merchant, shall be and is hereby appointed the officer to put this act in execution, who, before he enter upon his office, shall be qualified upon his oath or affirmation faithfully to execute the same without favor or regard to any person whatsoever and shall receive for his salary and in full for all the services required to be done by him in the execution of this act the sum of one shilling and three pence for every hundred weight of hemp which he shall search, view and weigh, and the sum of three shillings for every cable or hawser under five inches, and the sum of five shillings for every cable above that measure.

And for the enabling the said officer to pay the bounty for good, sound, water-rotted hemp, as directed by this act:

[Section VII.] Be it enacted by the authority aforesaid, That the collector of excise shall annually, out of the first moneys arising by the said excise which shall come into his hands, pay to the officer appointed by this act the sum of one hundred pounds, for which sum the said officer shall annually account with the provincial treasurer for the [residue of the]

said sum that shall be remaining in his hands after payment of the bounty upon hemp directed to be paid by this act.

Passed February 14, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I. Repealed by the Act of Assembly passed January 10, 1731-32, Chapter 328.

CHAPTER CCCXVII.

AN ACT TO REMOVE THE TRUSTEES OF THE GENERAL LOAN OFFICE OF PENNSYLVANIA AND APPOINTING OTHERS TO EXECUTE THE SAID TRUST.

Whereas in the year of our Lord one thousand seven hundred and twenty-three an act of general assembly of the province of Pennsylvania was made "For emitting and making current fifteen thousand pounds in bills of credit,"¹ to be let out upon loan for the term of eight years at the interest of five per cent per annum and for other purposes in the said act mentioned. And in the same year one other act of general assembly of the said province was made "For emitting and making current thirty thousand pounds in bills of credit,"² to be let out upon loan for the term of twelve years and a half at the like interest of five per cent per annum and for such other purposes as in the said act is directed. And in the year one thousand seven hundred and twenty-six one other act of general assembly of the said province was made "For re-emitting and continuing the currency of such bills of credit as by the said two former acts were directed to be sunk and destroyed, and for striking and making current ten thousand pounds in new bills of credit to supply those bills that were torn and defaced."³ And in the year one thousand seven hundred and twenty-nine one other act of assembly of the said province was

¹ Passed March 2, 1722-23, Chapter 261.

² Passed December 12, 1723, Chapter 275.

³ Passed March 5, 1725-26, Chapter 289.

made "For emitting and making current thirty thousand pounds in bills of credit,"¹ to let out upon loan for the term of sixteen years at the interest of five per cent per annum and such other uses as in the said act is directed and appointed.

And whereas Samuel Carpenter, Jeremiah Langhorne, William Fishbourn and Nathaniel Newlin, of the said province of Pennsylvania, gentlemen, were by the said several acts appointed trustees for the issuing and letting out upon loan and receiving in again all the said bills of credit made current by the said several acts of assembly, and were styled trustees of the general loan office of the province of Pennsylvania, and directed to keep the said general loan office in the city of Philadelphia, and to render annually to a committee of the assembly of this province an account of the sums by them let out upon loan and received in again pursuant to the directions of the said several acts. And whereas afterwards, to wit, in the year one thousand seven hundred and twenty-nine [afore-said], Nathaniel Newlin, one of the said trustees, died, and one Philip Taylor, of Chester county, was nominated a trustee in his stead. And whereas the annual committee of assembly appointed to audit the accounts of the said general loan office have frequently met with great delays and have been put to much pains and trouble and laid under great difficulties by the said trustees in coming at the knowledge of the true state of the said general loan office; and upon a late examination of the accounts of the said office it appears that several irregularities have been committed by the trustees in the management of the said trust, by reason whereof it is become necessary to remove the said trustees from their said offices of trustees of the general loan office of Pennsylvania and to appoint others in their stead and to make some provision for the more exact keeping the accounts and preventing any future mismanagement in the said office:

[Section I.] Be it therefore enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the

¹ Passed May 10, 1729, Chapter 300.

freemen of the said Province in General Assembly met, and by the authority of the same, That Samuel Carpenter, Jeremiah Langhorne, William Fishbourn and Philip Taylor be and are hereby discharged from executing the office of trustees of the general loan office of the province of Pennsylvania by virtue of the aforesaid acts of assembly; and that Andrew Hamilton and Charles Read of the city of Philadelphia, Jeremiah Langhorne of the county of Bucks, and Richard Hayes of the county of Chester, Esquire, be trustees of the said general loan office of the said province during the continuance of the aforesaid acts of assembly. And the said Andrew Hamilton, Charles Read, Jeremiah Langhorne and Richard Hayes, Esquires, are hereby nominated and appointed trustees of the said general loan office of the province of Pennsylvania for holding and ordering of the said general loan office and for receiving and issuing of the said bills of credit, according to the directions of the several acts of assembly before recited, and for the doing and performing all other matters and things enjoined or required to be done by the trustees of the [said] general loan office in the said office and relating to the said bills of credit by all or any of the said several acts of assembly during the continuance of the same as fully and amply to all intents and purposes as the said Samuel Carpenter, Jeremiah Langhorne, William Fishbourn and Nathaniel Newlin were empowered to do or could or might have done and as fully as if the said Andrew Hamilton, Charles Read, Jeremiah Langhorne and Richard Hayes had been expressly nominated and appointed trustees in the bodies of the said several acts of assembly, each of the said trustees before they enter upon the execution of their trust first giving bond to the provincial treasurer for the time being in the sum of three thousand pounds, according to the directions of the said acts of assembly, with a further condition to deliver up to their successors in the said trust the mortgage-deeds and all other things belonging to the said general loan office when they shall happen to be removed from their trust and taking the oath or affirmation therein enjoined to be taken by the trustees for the due performance of their trust; and if any of the said trustees shall happen to die or be removed for

misfeasance or for not acting, some other fit person or persons shall be appointed in the place or places of such trustee or trustees in the manner directed by the thirty-thousand-pound act made in the year one thousand seven hundred and twenty-nine.

And the said Andrew Hamilton, Charles Read, Jeremiah Langhorne and Richard Hayes are hereby further authorized and required to demand, take and receive of the said Samuel Carpenter, Jeremiah Langhorne, William Fishbourn and Philip Taylor, their heirs, executors and administrators and every of them, and of every other person concerned, all the mortgage-deeds, bonds and warrants-of-attorney, together with the books of records and enrollments of the same, and all deeds, writings and evidences relating to or concerning the rights or titles of any lands, tenements or hereditaments or other thing taken and received by the late trustees in [to] the said general loan office for security of payment of any sum of money, and all the bills of credit remaining in their or any of their hands belonging to the said loan office.

[Section II.] And be it further enacted by the authority aforesaid, That all the aforesaid mortgages and enrollments of the same or other deeds, evidences and writings relating to or concerning any mortgage or other security for payment of any money or bills of credit into the general loan office of the province of Pennsylvania, and all plate, with the said bills of credit now remaining in their or any of their hands, whether the same be to be re-emitted, sunk and destroyed or exchanged for torn bills, or directed by any of the aforesaid acts of general assembly to be paid to any persons for any particular uses, together with a schedule or inventory of the same, shall within the space of two weeks after the publication of this act be delivered to the trustees in this act named, who are hereby empowered to account with the said late trustees and to receive the mortgage-deeds, plate and other things so delivered of the said late trustees or any other person whomsoever having the same in their hands or possession, and to lay the said account before the general assembly of this province when thereunto required, and that the receipt of the said trustees by this act

appointed or any three of them shall be a sufficient discharge to the said Samuel Carpenter, Jeremiah Langhorne, William Fishbourn and Philip Taylor, their heirs, executors and administrators, for such bills of credit, plate, mortgage-deeds and enrollments of the same or other writings so delivered.

Provided always, That it shall and may be lawful for the late trustees or any of them, at any seasonable time or times, to have recourse to and inspection of all the mortgage-deeds or enrollments of the same with their endorsements, in order to enable them to account with the assemblies of this province or their committees or any other persons to be appointed by the assembly for that purpose if any such account be required.

And that the said trustees are hereby empowered to choose and employ a fit and able person to be clerk, for whom they shall be answerable, to serve them in the said office during their pleasure under the like qualifications enjoined to be taken by the clerk in the said acts before he enter upon his office, who shall deliver to the committee of assemblies when thereunto required upon oath or affirmation a true list of all mortgage-deeds taken according to the directions of the aforesaid acts of assembly; and the trustees shall themselves keep fair and exact books of accounts tablewise of all the emissions of bills of credit by them let out upon loan or otherwise issued out of the said office and of the receipts of the principal sums, quotas and interest arising thereupon of all the moneys [to them] paid in upon all or any of the said several acts of assembly, to which books of accounts the committee of assembly hereafter to be appointed to audit the said trustees' accounts shall have free access at all seasonable times, and shall further have delivered to them for the use of the assembly a fair duplicate of the said tables by the aforesaid trustees with a list of the receipts of all [such] moneys paid in with the days of payments, and likewise have access to the mortgage-deeds and enrollments of the same with the bonds given by the mortgagors, to the end they may be satisfied that there is due credit given the province for the moneys or bills of credit paid in, and that the same hath again been let out without delay to such persons as had occasion to borrow, and that the said committee may from time to

time be acquainted with the state of the whole transactions and affairs belonging to the said loan office. And such of the said trustees as shall undertake and execute the said trust shall each of them receive the same like salaries as are allowed and appointed by the aforesaid several acts of assembly to be paid to the former trustees.

Passed August 15, 1730. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the note to the Act of Assembly passed March 5, 1725-26, Chapter 289; and the Resolution of January 1, 1733-34, recorded in Votes of Assembly, Volume III, p. 202; and the Act of Assembly passed August 25, 1738, Chapter 345.

CHAPTER CCCXVIII.

AN ACT TO PREVENT THE ERECTING WEIRS, DAMS, &c., WITHIN THE RIVER SCHUYLKILL.

Whereas the common passage for rafts of timber, boards, staves, boats, canoes and other craft is very much hindered and obstructed by weirs and fishing dams set up against the public good and convenience of trade up and down within the river Schuylkill:

For the preventing whereof:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all weirs, fishing-dams and other devices or obstructions whatsoever built, laid or erected within the river Schuylkill so as the trade of the said river or creek may thereby be hindered or obstructed, shall within the space of twenty days next after the publication of this act or as soon as conveniently may [be] be removed in the manner hereinafter directed by this act.

And if any person or persons whatsoever shall hereafter presume to build, erect, set up or repair any such weirs or fish-

ing dams or other device or obstruction whatsoever within the river or creek aforesaid, whereby the trade or passage of the said river or creek for the purposes aforesaid may be impeded or hindered, and complaint thereof be made to two of the next justices of the peace to the place where such device or obstruction is erected or laid, who are hereby required upon such complaint to repair to and view the said dam or obstruction, and if the same shall appear to them to be such dam or device as may incommode or hinder the trade aforesaid within the said river or creek, the justices shall then issue their warrant against the person or persons suspected to have erected or laid such obstruction, and such person or persons, being convicted by the oath or affirmation of one or more credible witnesses before the said two justices, such offender or offenders shall each of them forfeit for every such offense the sum of thirty shillings, to be levied by distress and sale of the offenders' goods. But if no effects can be found, the offender or offenders shall stand committed to the common gaol for the space of twenty days.

Provided always, That if the defendant shall be dissatisfied with such judgment and crave the benefit of an appeal for the same to the next court of general quarter-sessions of the peace to be held for the county where the offense is committed, and shall further enter into recognizance with one or more sureties before the justices in the sum of ten pounds to prosecute his, her or their appeal with effect and to pay all such costs and charges in law as shall accrue in case the appellant or appellants be condemned in such appeal, then execution upon the judgment aforesaid shall be stayed until the said appeal be determined. And for the more speedy removing such obstructions as are already made or hereafter shall be made it shall and may be lawful for the justices who shall view the same, and they are hereby enjoined and required, to issue forth their warrant to the surveyor of the highways of the townships next adjacent to the obstruction so erected (or to such person or persons as the justices shall think fit) requiring them to summon the inhabitants of the respective townships or the nearest inhabitants to the dam or device so erected or laid, by giving them four days' notice to repair to and remove the said obstruction.

And any person or persons refusing or neglecting to appear and assist in removing such obstruction at the time appointed shall for every such offense forfeit the sum of five shillings to be levied in manner aforesaid. All the fines and forfeitures arising by virtue of this act shall be applied towards the defraying the costs of prosecution, and if any overplus be it shall be applied to the use of the poor of the said township.

Passed August 15, 1730. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I. Repealed by the Act of Assembly passed August 17, 1734, Chapter 335, and also by the Act of Assembly passed March 14, 1761, Chapter 465.

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1730, and continued by adjournment until the fourth day of January, 1730-31, the following acts were passed:

CHAPTER CCCXIX.

AN ACT FOR RE-EMITTING AND CONTINUING THE CURRENCY OF SUCH BILLS OF CREDIT OF THIS PROVINCE AS BY FORMER ACTS ARE DIRECTED TO BE SUNK AND DESTROYED.

Whereas by two several acts of general assembly of this province made in the ninth and tenth years of the reign of our late sovereign, King George the First, bills of credit to the value of forty-five thousand pounds¹ were struck and emitted to be let out upon loan on land security, and again to be paid in annually and to be sunk and destroyed according to the directions of the said acts. And whereas the sinking and destroying of the said bills of credit pursuant to the directions of the said several acts did greatly reduce the quantity of the currency of this province; and thereupon the representatives of the said province in the second year of the reign of our present sovereign, King George the Second, taking the same into their consideration and being sensible of the great difficulties the merchants and people of Pennsylvania were reduced to in carrying on the trade and commerce of the province for want of a sufficient currency, bills of credit to the value of thirty thousand pounds were by another act of general assembly of this province struck and emitted to be let out upon loan on land security as in the said last-mentioned act is directed. And whereas by the accounts of the general loan office of this province it appears that the bills of credit emitted by virtue of the said two first acts of assembly and of one other act of assembly for the re-emission of the said bills of credit are now near ex-

¹ Passed March 2, 1722-23, Chapter 261, and December 12, 1723, Chapter 275.

piring, and should the annual quotas yet remaining due upon the said several acts be sunk and destroyed as by the said acts is directed, it may again involve the merchants as well as farmers and tradesmen of this province in new difficulties and lay them under a necessity of making new acts of assembly for emitting more bills of credit to supply the wants of the people:

For preventing which inconveniencies:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That such yearly quotas or payments (parcel of the principal sums emitted in bills of credit of this province pursuant to the direction of the said acts respectively) and such other principal sums which by virtue thereof or of any mortgage-deed or assurance by any of the beforementioned acts directed to be taken, and which are or shall be paid, recovered or received from time to time before the fifteenth day of October, which will be in the year of our Lord one thousand seven hundred and thirty-seven, shall not be sunk or destroyed, nor shall any part or parcel of any quotas or principal sums in bills of credit, payable within the space aforesaid unto the trustees nominated or to be nominated pursuant to the direction of these acts or any other acts of assembly of this province, be sunk or destroyed otherwise or at any other time than is by this act directed; nor shall the trustees or any of them be culpable or suffer any penalty or forfeiture for not sinking the said bills of credit as directed by the aforesaid acts, anything in the said acts or any of them contained to the contrary notwithstanding; but the same yearly quotas and principal sums in bills of credit so to be paid in, unto and received by the said trustees or any of them within the time before limited, whether payable by the provincial or any of the county treasurers or by the mayor or treasurer of Philadelphia or by any mortgagor or person whatsoever, and every part and parcel of the same sums shall from time to time be re-emitted by the trustees of the general loan office of the

province of Pennsylvania for the time being upon loans as hereinafter mentioned and appointed. And that all the yearly quotas or parcels of the principal sums arising upon those re-emissions which shall be paid into the general loan office of the province of Pennsylvania on or before the aforesaid fifteenth day of October in the year of our Lord one thousand seven hundred and thirty-seven shall, by the trustees thereof for the time being, be re-emitted again on securities as aforesaid and so from time to time until all principal moneys anyways accruing that shall be paid unto them on or before the said fifteenth day of October, one thousand seven hundred and thirty-seven, shall be wholly re-emitted.

[Section II.] And be it further enacted by the authority aforesaid, That the trustees of the general loan office aforesaid shall lend out the value of all the bills of credit that they shall so receive to be re-emitted as before in this present act directed, in sums not exceeding one hundred pounds nor less than twelve pounds ten shillings, to any one person for and during all the rest and residue of the sixteen years in the said-recited thirty-thousand-pound act limited, commencing from the times of the same respective loans to be made by this present act, upon securities of messuages, lands, tenements, rents and hereditaments in this province of which the respective mortgagors stand seized in fee-simple, clear of incumbrances (the proprietor's quit-rent and other rents discovered to the said trustees issuing out of the same securities excepted), of which title and clearness the said trustees are to inform themselves the best they can, and to observe the same directions in the valuation thereof and in proportioning such valuation to the sums requested to be lent as the same thirty-thousand-pound act before recited directeth upon loans thereby made. Whereupon the said trustees, in pursuance of the trust hereby committed to them, shall in the name and style of the trustees of the general loan office of the province of Pennsylvania and not other ways take and receive deeds of mortgage in fee-simple of such messuages, lands, tenements, rents or hereditaments as aforesaid, with bonds and

warrants-of-attorney, as by the said thirty-thousand-pound act is directed for securing the repayments of the sums they lend to be made yearly and every year of the remainder of the sixteen years aforesaid by even and equal annual payments, and so proportionably for the part or parts of a year as occasion may happen, together with the whole interest at the rate appointed by the said thirty-thousand-pound act, which deeds shall be executed and acknowledged and the oath or affirmation of the mortgagor to be thereon endorsed as by the [afore] said act is directed. Which deeds so executed, &c., shall transfer the possession and be of the same force and effect and the words therein shall have the same operation in law as the deeds made or directed to be made and taken in pursuance of the aforesaid thirty-thousand-pound act to all intents and purposes whatsoever; and in default of payment of any of the sums contained in the said mortgage-deeds to sue for and recover the same in the like manner as is directed by the said last-mentioned act as fully and effectually as if here again particularly repeated. And for the better preservation of the said mortgage-deeds being executed as in the said thirty-thousand-pound act is appointed, the said deeds shall be entered at large in books of royal or other large paper and shall be of the same force and virtue as by the aforesaid act of assembly is provided and ordained.

[Section III.] And be it further enacted by the authority aforesaid, That all and every the payments made, whether principal sums or quotas, upon any mortgage-deed by this act directed to be taken, shall be by the said trustees endorsed and entered in the same manner and be of the same force and effect for discharging a part or the whole of any of the said mortgage-deeds as by the aforesaid thirty-thousand-pound act is directed and appointed, and that the trustees shall receive the same sums for endorsements on the mortgages and other entries and discharges as by the aforesaid act of assembly is limited and appointed and no more.

Provided always, That until some default shall be made in payment by the respective mortgagors, it shall be lawful for them and their heirs to hold and enjoy the mortgaged premises

with the appurtenances, the mortgage-deeds or anything therein contained to the contrary notwithstanding.

[Section IV.] And be it further enacted by the authority aforesaid, That the said trustees shall be styled, as heretofore, "The Trustees of the General Loan Office of the Province of Pennsylvania," and shall have succession and the same capacities and powers for putting this present and the before-mentioned acts in execution, to all intents and purposes, as in the said thirty-thousand-pound act is contained and settled for putting the same in execution, subject, nevertheless, to all and singular the provisos, alterations, limitations and restrictions in and by this present act provided and ordained.

[Section V.] And be it further enacted by the authority aforesaid, That every article, clause and sentence in the said former acts respectively (except such clauses and parts thereof as are hereby altered, supplied or concerning which other provision is hereby made) shall be and are hereby declared to be and continue of full force and virtue in the law as if this present act had not been made.

[Section VI.] And be it further enacted by the authority aforesaid, That before any of the said trustees for the time being shall enter upon the execution of the trust by this act required, they shall each of them enter into a bond to the provincial treasurer of this province for the time being in the penalty of five hundred pounds conditioned for the due observance of all things required of him in performance of the trust reposed in him by this present act, and shall each of them also make oath or affirmation before any justice of the peace of the city or county of Philadelphia, who is hereby empowered and required to administer the same, that to the best of his skill and knowledge he will faithfully, impartially and truly demean himself in the discharge of the trust committed to him by this present act, as also in the discharge of the remaining part of the trust committed to him by the said before-recited acts, so as none may be prejudiced by his consent, privity or procurement. And that the said trustees, assuming upon themselves the execution of the trust by this present act

required of them, shall be allowed for their service and trouble therein at and after the rate of ten pounds per annum each added to their salaries hereafter accruing by the said former acts, payable to each of them in bills of credit of this province for and during the term of seven years from the commencement of this act. And that the said trustees or any two of them shall duly attend at the said loan office the first Tuesday in the months of March, May, July, September, November and January, yearly, for receiving the sums to be paid in pursuant to this and the said former acts respectively, and for emitting the sums to be lent by the direction of this present act, until all the quotas paid in pursuant to this and the said former acts be re-emitted, and afterwards at such times as the trust and service of the public may require them during the continuance of the said-recited thirty-thousand-pound act.

And whereas most of the bills of credit emitted by the several acts of assembly of this province before the tenth day of April in the year of our Lord one thousand seven hundred and twenty-eight are so torn and defaced that the currency thereof is almost stopped and the said bills of credit become useless to the people: For remedy of which inconveniency, and yet that no addition may or shall be made by this act to the sum of the bills of credit now current in this province:

[Section VII.] Be it enacted by the authority aforesaid, That indented bills of credit to the value of forty thousand pounds current money of America, according to an act of Parliament made in the sixth year of the reign of the late Queen Anne, with counterparts of the same bills, shall be prepared and printed before the tenth day of April next ensuing on good paper under the care and direction of the trustees of the general loan office, but at the charge of the province, to be paid by the said trustees. And [that the said bills shall severally] contain therein the sums hereafter respectively mentioned and no other: (That is to say) four thousand of the same bills, the sum of one shilling in each of them; four thousand of the same bills, the sum of one shilling and six pence in each of them; five thousand of the same bills, the sum of two shillings in each of them; eight thousand of the same bills, the sum of two

shillings and six pence in each of them; twelve thousand of the same bills, the sum of five shillings in each of them; ten thousand of the same bills, the sum of ten shillings in each of them; eight thousand of the same bills, the sum of fifteen shillings in each of them; and twenty-four thousand of the same bills, the sum of twenty shillings in each of them. And the said original bills shall have the same arms impressed thereon and be of the same tenor as original bills of the denominations respectively are directed and appointed to be of by the said-recited act for emitting [thirty thousand] pounds in bills of credit, save only the difference in the date and the form and the names of the signers thereunto subscribed; and that the said trustees or one of them or some other person under their direction and for whom they shall be accountable shall duly attend at the place where the said office is kept on the first Wednesday in every month, then and there to deliver out new bills of one thousand pounds value hereby directed to be struck to such persons as demand them in exchange and in lieu of such torn, ragged and other bills directed to be exchanged by this act as the said trustees or any of them shall judge to be genuine bills of this province and of equal value with those they so give in exchange, until the whole forty thousand pounds in this act directed to be struck to be exchanged for such bills of credit be wholly exchanged; which said torn and other bills, being kept by the said trustees, shall by them be produced for their vouchers to discharge themselves of the forty thousand pounds value aforesaid before any committee of assembly to be appointed auditors of the said trustees' accounts, who shall thereupon cause the said bills to be sunk and destroyed; and that the sum of twelve pounds ten shillings shall be paid to the trustee having the custody of the said bills for every ten thousand pounds' value of the said bills of credit which he shall so exchange; and that the clerk shall once a year make out a list of the securities by this act directed to be taken, containing the persons' names to whom the sums are lent and the times when, and the same lists shall submit and deliver to the assembly of this province for the time being from time to time until all the sums hereby directed to be emitted be wholly comprehended and delivered;

and shall be under the same restraints and qualifications and shall receive the same fees and rewards for his services as by the aforesaid thirty-thousand-pound act is provided and allowed and no other.

[Section VIII.] And be it further enacted by the authority aforesaid, That any committee of assembly of this province being appointed auditors of accounts of the said trustees, the same auditors for the time being shall once in every year or oftener call the said trustees to account for all the moneys in bills of credit they shall receive, recover and pay, exchange or emit, in pursuance of this act; and all the interest to be received upon securities hereby directed to be taken being accounted for and the salaries and charges allowed by this act being deducted, they the said trustees shall dispose of the said interest money as the assemblies of this province shall from time to time order and direct. And that all and singular the bills which shall be made and issued in pursuance of this present act in exchange for torn or ragged bills or for any other bills of credit emitted before the said tenth day of April, shall in all respects have the same currency and be of the same effect in law and equity with regard to payments and tenders or bringing the same into court for performance of any contract or bargain or promise whatsoever and to all other intents and purposes as any other bills of credit emitted by virtue of the said thirty-thousand-pound act may, can or ought to have; and that none of the bills of credit emitted by virtue of any act or acts of assembly of this province before the said tenth day of April in the year of our Lord one thousand seven hundred and twenty-eight shall be current after the first day of March, which will be in the year of our Lord one thousand seven hundred and thirty-one.

[Section IX.] And be it further enacted by the authority aforesaid, That if any person or persons shall presume to forge or counterfeit any of the said bills of credit issued to be exchanged for torn bills in pursuance of this act, or shall be aiding or assisting therein, or shall enlarge the value or sum expressed in any of the said bills, or shall utter or cause to be

uttered or offered in payment any such bill or bills, knowing the same to be forged, counterfeited or the value or sum therein altered, and being thereof legally convict, such person or persons so offending shall suffer the same pains and penalties and be prosecuted in the same manner as by the aforesaid thirty-thousand-pound act is directed.

[Section X.] And be it further enacted by the authority aforesaid, That each of the said new bills to be made by virtue of this act shall be signed and numbered by the persons hereby appointed signers of the same bills, viz.: Job Goodson, John Parry, Joseph Kirkbride and Thomas Griffiths. And if any of the said signers shall happen to die or be rendered incapable of doing his duty required by this act, the assembly for the time being shall appoint other persons to supply such deficiencies from time to time until all the bills to the value of forty thousand pounds shall be signed and together with their counterparts numbered and delivered as this act directs. But before any of the persons before named or hereafter to be appointed signers of bills of credit by virtue of this act presume to act therein, they shall take an oath or affirmation before any one justice of the peace of the city or county of Philadelphia, who is hereby empowered and required to administer the same, charging them jointly and severally that they will well and truly sign and number the said original bills of credit and number their counterparts that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver or cause to be delivered to the trustees of the general loan office of this province, pursuant to the directions of the same act.

[Section XI.] And be it further enacted by the authority aforesaid, That the said trustees within ten days after the said new bills and counterparts are prepared and deposited with them as by this act is directed, shall deliver out at the place where they keep the said loan office the value of one thousand pounds out of the said forty thousand pounds to the signers hereby appointed, who, having signed and numbered the said original bills so delivered to them and truly numbered the counterparts thereof, shall immediately re-deliver them to the

said trustees, who shall thereupon give their receipts for the same; and after the said bills to the value of one thousand pounds aforesaid are exchanged by the said trustees as this act directs, then the trustees of the said loan office for the time being shall within ten days next after deliver out at their said office to the signers of bills for the time being the further value of one thousand pounds, who, having signed and numbered the said original bills so delivered to them and numbered the counterparts thereof, shall immediately re-deliver them to the trustees, who shall thereupon give their receipts as abovesaid, and so from time to time till the whole value of the said forty thousand pounds, by delivering, signing, numbering and re-delivering one thousand pounds value at a time, shall be exchanged as this act directs; and the said counterparts, so numbered and re-delivered as aforesaid, shall be kept by the said trustees for trying the truth of their originals when there shall be occasion.

And the said signers shall cause to be kept a true account of all the bills they so respectively sign and deliver as aforesaid; and for their care and trouble required of them by this act the signers of each thousand bills shall receive fifteen shillings each in six days after their delivery thereof with their counterparts, as above directed, to be paid by the trustees for the time being unto each signer, his executors, administrators or assigns, out of the interest money in their hands.

[Section XII.] And be it further enacted by the authority aforesaid, That after all the sums and bills of credit to be received by the trustees of the general loan office aforesaid are by them accounted for and sunk pursuant to the direction of this act, the same trustees for the time being, their heirs, executors and administrators and every of them, shall thenceforward stand and forever be clearly discharged and acquitted of and from all manner of obligations, securities, actions, causes of actions and of and from all further and other accounts and demands whatsoever to be made or rendered by them of or for any trust unto them committed or anything by them done in pursuance of this act.

[Section XIII.] And be it further enacted by the authority

aforesaid, That John Wright, of Lancaster county, gentleman, shall be and is hereby appointed one of the trustees of the general loan office of the province of Pennsylvania for the issuing out and receiving in again the bills of credit lent out upon loan by virtue of this act and taking securities for the same, and to render an account of his management in his said trust at the same time and in the same manner with the other trustees of the general loan office of this province, and before he enter upon the execution of his trust shall give security to the provincial treasurer in the sum of one thousand pounds for the due performance of his trust, and shall take an affirmation before any justice of the peace of the county of Philadelphia that he will, according to the best of his skill and knowledge, faithfully, impartially and truly demean himself in the discharge of the trust committed to him by an act of general assembly of this province, entitled "An act for re-emitting and continuing the currency of such bills of credit of this province as by former acts are directed to be sunk and destroyed," according to the purport and tenor of the said act, so as none may be prejudiced by his consent, privity or procurement. And the said John Wright shall attend at the general loan office in Philadelphia at least three times in the year, to wit, the first Tuesdays in March, July and November, and shall have allowed to him the sum of fifty pounds per annum for his service and trouble in the execution of his said trust.

And whereas it is represented by the commissioners and assessors of the county of Lancaster that they have occasion for a sum of three hundred pounds over and above the sum first lent to the said county to finish the prison and court-house of the said county:

[Section XIV.] Be it enacted by the authority aforesaid, That the sum of three hundred pounds in bills of credit of this province be delivered to the treasurer of Lancaster county, he giving his receipt for the same to the trustees of the general loan office aforesaid, which said treasurer shall pay the same to the order of the trustees appointed to build the said prison and court-house, who shall annually lay the account of their payments and disbursements before the commissioners and asses-

sors for the same county, which said bills of credit shall be sunk by taxes to be laid on the county of Lancaster in the same manner that county levies are usually raised and levied, until all the bills of credit so as aforesaid received on the account and for the use of the said county be sunk in the manner prescribed for sinking bills of credit by this and one other act of assembly of this province made in the second year of His Majesty's reign for emitting and making current thirty thousand pounds.

[Section XV.] And be it further enacted by the authority aforesaid, That upon any emission of bills of credit to be made by virtue of this act the trustees are hereby directed and empowered so to devise the mortgage-deeds that the annual quotas or payments of the money thereby secured be made payable on the fifteenth day of October annually; and the trustees are hereby required, in settling their accounts with the auditors or committees of the assembly of this province, to render an account as well of the days and times of their receipts as of the days and times when the same sums are emitted again.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed March 5, 1725-26, Chapter 289.

CHAPTER CCCXX.

AN ACT FOR THE ENABLING RELIGIOUS SOCIETIES OF PROTESTANTS
! . WITHIN THIS PROVINCE TO PURCHASE LANDS FOR BURYING
! GROUNDS, CHURCHES, HOUSES FOR WORSHIP, SCHOOLS, &c.

Whereas sundry religious societies of people within this province professing the Protestant religion have at their own respective costs and charges purchased small pieces of land within the province of Pennsylvania, and thereon have erected churches and other houses of religious worship, school-houses and almshouses and inclosed part of [the] same lands for

burying grounds. And whereas the said lands were purchased and paid for by the said respective societies in the name or names of persons at that time being of or professing themselves to be of the same religious persuasion with the societies who made use of the names of the said persons as trustees for and in behalf of the said societies.

And whereas some of the said trustees or their heirs, having afterwards changed their opinions and joined themselves to other religious societies of a different persuasion from the people by whom the said persons were at first entrusted, and upon pretext of their having the fee-simple of the lands so purchased in their names vested in them, have, contrary to the true intent and meaning of the first grant or gift, attempted (by granting away the said lands, houses of religious worship and burying grounds) to deprive the society of people in possession of the same of the right and use of the said houses of worship and burying grounds, to the great disquiet and uneasiness of many of the good people of this province; and others, being entrusted in the like manner, may hereafter do the same:

For remedy whereof, and for the better securing the several religious societies in the quiet and peaceable possession of their churches, houses of worship, school-houses and almshouses and burying grounds within this province:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all sales, gifts or grants made of any lands or tenements within the province of Pennsylvania to any person or persons in trust for sites of churches, houses of religious worship, schools, almshouses and for burying grounds or for any of them shall be and are hereby ratified and confirmed to the person or persons to whom the same were sold, given or granted, their heirs and assigns, in trust, nevertheless, and for the use of the respective religious societies for whose use the same were at first sold, given, granted or purchased, according to the true intent and meaning of such gifts

or grants; and that every sale, gift, grant or devise of any such trustee or trustees or any person or persons in whose name or names the said lands for erecting churches, houses of religious worship, schools, almshouses or burying grounds within this province were purchased, taken or accepted, or the heirs or assigns of such trustees, shall be and are hereby declared to be for the sole use, benefit and behoof of the said respective societies, who have been in the peaceable possession of the same for the space of twenty-one years next before the tenth day of June in the year of our Lord one thousand seven hundred and thirty, or for whose use the same were at first given, granted or devised, and no other.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any religious society of Protestants within this province to purchase, take and receive by gift, grant, or otherwise, for burying grounds, erecting churches, houses of religious worship, schools and almshouses, for any estate whatsoever, and to hold the same for the uses aforesaid of the lord of the fee by the accustomed rents.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That nothing in this act contained shall be deemed, taken or construed to enable any of the said religious societies of people, or any person or persons whatsoever in trust for them or to their use, to purchase, take or receive any lands or tenements by gift, grant or otherwise for or towards the maintenance or support of the said churches, houses of worship, schools or almshouses or the people belonging to the same, or for any other use or purpose save for the uses in this act before mentioned.

Provided also, That this act nor anything therein contained shall be deemed or construed to impeach the just right or title which any person or persons may have to any of the lands or tenements hereinbefore mentioned, so that they prosecute such their right or claim within the space of three years next after the publication of this act.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accord-

ance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed April 6, 1791, Chapter 1547; February 17, 1818, P. L. 104; April 8, 1833, P. L. 238; (the Constitution of 1838, Article VII, Section III;) October 13, 1840, P. L. (1841) 1; April 22, 1841, P. L. 269; August 2, 1842, P. L. 458; February 20, 1854, P. L. 90; April 26, 1855, P. L. 328; May 7, 1855, P. L. 477; April 9, 1856, P. L. 293; March 26, 1867, P. L. 44; April 4, 1872, P. L. 40; April 29, 1874, P. L. 73; April 17, 1876, P. L. 30; May 8, 1876, P. L. 143; May 26, 1876, P. L. 211; May 24, 1877, P. L. 39; April 11, 1879, P. L. 22; May 13, 1879, P. L. 60; May 23, 1887, P. L. 168; June 2, 1887, P. L. 298; April 22, 1889, P. L. 42; May 9, 1889, P. L. 173; May 21, 1889, P. L. 257; May 29, 1889, P. L. 395; May 26, 1891, P. L. 119; June 8, 1891, P. L. 211; June 9, 1891, P. L. 249; April 10, 1893, P. L. 14; June 6, 1893, P. L. 325; June 10, 1893, P. L. 435; May 23, 1895, P. L. 114.

CHAPTER CCCXXI.

AN ACT FOR AMENDMENT OF THE LAW, ENTITLED "AN ACT FOR RELIEF OF INSOLVENT DEBTORS."

Whereas sundry idle and ill-disposed persons who were indebted before the commencement of an act of assembly of this province, entitled "An act for the relief of insolvent debtors,"¹ have very much abused their creditors and disappointed the good intentions of the legislature in making the said act, and especially single or unmarried persons who were indebted in small sums of money which they could easily have paid by their labor, have taken the advantage of the said act of assembly by procuring themselves to be discharged as insolvent debtors, by means whereof many creditors of low circumstances have lost their debts and been obliged to pay the costs of suit:

[Section I.] Be it therefore enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons whatsoever shall have any benefit of the afore-

¹ Passed February 14, 1729-30, Chapter 315.

said act of assembly for the relief of insolvent debtors for any sum or sums of money which they owed before the making of the said act except such persons as were actually prisoners in some of the public gaols of this province on or before the first day of August, in the year one thousand seven hundred and thirty, anything in the said act to the contrary in anywise notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That no person or persons, being unmarried and under the age of forty years, having no charge of children, and being or that shall be indebted to any one or more persons in any sum or sums of money in the whole not exceeding twenty pounds, shall have any benefit of the aforesaid act of assembly, but such person or persons shall be liable to be arrested and imprisoned for their respective debts as if the said act of assembly had never been made.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That any person or persons within this province that shall be arrested and imprisoned for any debt, sum or sums of money or other thing which was owing by them before the first day of August last past, and that any single person under the age of forty years aforesaid, having no charge of children and whose debts in the whole do not exceed twenty pounds, whether the debts owing by such person were contracted before the said first day of August last or since that or shall hereafter be contracted, and being arrested or imprisoned for the same or any part thereof, may at any succeeding court to be held for the city or county where he or she is imprisoned next after his or her imprisonment exhibit to the justices of the said court, upon oath or affirmation, an account of all their effects to which they have any right in law or equity, and the names of their creditors at whose suit such person is imprisoned, and the sums of money which they owe and when the same became due, as far as his or her knowledge does extend, and shall by petition show to the court their inability to pay the debts for which such person is imprisoned, and shall make an assignment of their effects to any person that shall be appointed by the court in trust for his or her creditors or for

such of them as the said court shall direct, and shall signify his or her willingness to make satisfaction by servitude for the residue of the debt, the party petitioning shall be discharged as by an act of assembly of this province, entitled "An act about arrests and making debtors pay by servitude,"² is provided, which said act of assembly is hereby revived and declared to be and continue in full force for the purposes in this act mentioned, anything in the aforesaid act of assembly for relief of insolvent debtors contained to the contrary notwithstanding.

[Section IV.] And be it further enacted by the authority aforesaid, That no person or persons who have not resided within this province for the space of two years next before his or her imprisonment shall have the benefit of the aforesaid act for relief of insolvent debtors.

Provided nevertheless, That if the person at whose suit any person is arrested shall refuse or neglect to give security for payment of such weekly allowance for maintenance of the defendant as the justices of the court where the said suit is depending shall direct and award, and also give security that the said defendant [or defendants], his or their wife or children nor any of them, shall become chargeable to the town or county where such person or persons are imprisoned, it shall and may be lawful for the justices of the said respective courts of common pleas within this province, and they are hereby required, in such case to cause the action or actions against the person or persons so imprisoned to be discontinued and the parties thereupon to be discharged.

[Section V.] And be it further enacted by the authority aforesaid, That if any person be imprisoned in any city or county of this province for any debt under forty shillings, having no effects to pay the same, and shall be willing to make satisfaction by servitude, it shall and may be lawful for any two magistrates in any county or city within this province where the party is imprisoned to proceed to relieve the party so imprisoned by judging such debtor to make satisfaction by servitude.

² Passed January 12, 1705-6. Chapter 153.

And whereas some doubts have arisen concerning the meaning of some part of the aforesaid act of assembly for relief of insolvent debtors touching the time of [the] sheriff being capable to hold his office in any county of this province, and the uses to which the fine of two hundred pounds imposed on any person occupying the office of sheriff contrary to the directions of the said act shall be applied:

Therefore, for the removing any doubts that have arisen or may arise concerning that part of the aforesaid act:

[Section VI.] Be it enacted by the authority aforesaid, and it is hereby declared to be the true intent and meaning of the aforesaid act of assembly, That no sheriff who had been elected and who had occupied the office of a sheriff or under-sheriff in any county of this province for the space of three years at one time, shall be again elected sheriff for the said county or serve or occupy the office of a sheriff in the same county within the space of three years next after his being sheriff as aforesaid.

[Section VII.] And it is hereby enacted and declared, That of the two persons elected for the office of sheriff and returned to the governor, one being commissioned, the other shall not act as under-sheriff to the [person appointed] sheriff during the term of the said sheriff's commission; and that if any sheriff or under-sheriff within this province shall be elected contrary to the true intent and meaning of this act and the aforesaid act of assembly, such his election shall be null and void; and if any such sheriff or under-sheriff shall again enter upon and occupy the office of a sheriff contrary to the directions and provision made in and by this and the [last-mentioned] act of assembly, he shall forfeit and pay the sum of two hundred pounds as in the said act is directed, one moiety thereof to the person or persons who will inform or sue for the same, and the other half to be paid to the provincial treasurer towards the support of government, to be recovered by action of debt, bill, plaint or information, wherein no more than one imparlance shall be allowed; and that no pardon, *nolle prosequi* or other act of the governor or lieutenant-governor for the time being shall be

any bar or hindrance to the suing for, recovering and levying the said fine for the uses aforesaid.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed February 14, 1729-30, Chapter 315.

CHAPTER CCCXXII.

AN ACT FOR THE BETTER PREVENTION OF ACCIDENTS THAT MAY HAPPEN BY FIRE IN THE CITY OF PHILADELPHIA BY BAKE HOUSES AND COOPERS' SHOPS.

For the further securing the inhabitants of the city of Philadelphia from the dangers that may happen by fire:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the space of sixteen months next ensuing the publication of this act no person whatsoever within the said city, by himself, his agents, journeymen or servants, shall occupy the trade of a cooper or baker but in such shops or places as are built in the manner herein respectively directed and appointed: (That is to say) that no person after the time aforesaid shall occupy the trade of a cooper within the said city but in a shop or place built of brick or stone, with a large chimney in the same, the ceiling thereof plastered, no stairs nor passage up the loft within such shop, and the floor thereof to be earth, or laid with good two-inch oak plank. And that no person after the time aforesaid within the said city shall occupy the trade of a biscuit or soft bread baker but in a bakehouse built of brick or stone and arched over with brick if the place will admit thereof, or otherwise to be well ceiled with plastering; the floor of the said bakehouse paved with brick or stone; the crown of the oven to

be secured by carrying up the foundation walls square and filling the same with gravel or sand at least six inches higher than the top of the oven; and the chimney to be arched in the said bakehouse without any timber in or near adjoining to the same.

[Section II.] And be it further enacted by the authority aforesaid, That if any person or persons from and after the time aforesaid shall presume, by themselves, their agents, journeymen or servants, to occupy the trade of a cooper or biscuit or soft bread baker or either of them within the city aforesaid in any shop or place other than is above directed, enjoined and appointed, every person so offending for every month he, she or they shall occupy the trades of baker or cooper or either of them in any shop or bakehouse contrary to the directions of this act shall forfeit as hereinafter is provided: (That is to say) for the first offense, the sum of twenty shillings; and for the second offense, the sum of thirty shillings; and for the third and every other offense, the sum of forty shillings; to be recovered upon complaint made in the name of the clerk of the market for the city of Philadelphia or in the name of any other person who will [give] information of the same, for and towards the repair of fire engines and purchasing leathern buckets, before two magistrates of the said city, whereof the mayor for the time being to be one.

Provided always, That if any person or persons shall find him, her or themselves aggrieved with any judgment or sentence of the said two magistrates, it shall and may be lawful for the person or persons so aggrieved to appeal to the next court of common pleas to be held for the city and county of Philadelphia aforesaid, whose judgment therein shall be definitive.

[Section III.] And be it further enacted by the authority aforesaid, That no person whatsoever within the city aforesaid, from and after the tenth day of May next ensuing, shall keep or stack any hay within one hundred feet of any dwelling house or other building (except it be in a stable or other secure house) nor shall keep any greater number of fagots than two hundred unless it be at a distance of one hundred feet from any

dwelling house or other building under the penalty of ten shillings for every offense, which penalties so accruing shall be recovered and applied in the manner and to the use aforesaid with costs of suit, and the hay and fagots so remaining against the tenor of this act shall be liable to be removed in such sort, manner and form as any nuisance may be by the laws of Great Britain or this province.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed April 12, 1828, P. L. 344.

CHAPTER CCCXXIII.

A SUPPLEMENT TO THE LAW, ENTITLED "AN ACT TO PREVENT THE KILLING OF DEER OUT OF SEASON AND AGAINST CARRYING OF GUNS AND HUNTING BY PERSONS NOT QUALIFIED."¹

Whereas the said law limits the conviction of offenders against the said act to be within two months next after such offense is committed, by the oath or affirmation of one or more witnesses. But forasmuch as there is no provision made against hunting and chasing deer out of season nor any person under any obligation to prosecute, many offenders pass with impunity, and the good end and purpose for which the said act was made is eluded and rendered not so beneficial as it otherwise might be:

[Section I.] Therefore be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person or persons shall after the publication hereof [hunt, chase or follow] any buck, doe, fawn or any deer whatsoever at any other time or season excepting only between the first day of July and the first day of January, and shall be lawfully

¹ Passed August 26, 1721, Chapter 246.

convicted thereof by the oath or affirmation of one or more witnesses or the confession of the party before one or more justices of the peace for the respective county where such offense shall be committed, he or they shall forfeit and pay for every such offense the sum of ten shillings, to be recovered as aforesaid and for the uses in the aforesaid act directed.

[Section II.] Be it further enacted by the authority aforesaid, That the constables of each respective township in every county of this province having any knowledge of any offenses against this and the said-recited act shall and are hereby required to present every such offense to some one justice of the peace for the respective county where such offense shall be committed or before the justices of the general quarter-sessions of the peace for the same county, together with the name or names of all such offenders. And the said justice or justices of the respective sessions aforesaid are hereby empowered and required to hear and determine the same and to convict the offenders in the penalties and forfeitures mentioned in this and the said-recited act, so that such conviction shall be within four months next ensuing after such offense committed, anything in the said-recited act or any other law of this province to the contrary in anywise notwithstanding.

Provided, That nothing herein contained shall be deemed or taken to disannul, alter or make void the said-recited act or anything therein contained, but that every clause, article and sentence therein, except what is hereby altered or supplied, shall be and remain in full force and virtue.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed January 27, 1749-50, Chapter 383; (repealed by the Act of Assembly passed) April 9, 1760, Chapter 456.

CHAPTER CCCXXIV.

AN ACT FOR THE BETTER ENABLING DIVERS INHABITANTS OF THE PROVINCE OF PENNSYLVANIA TO HOLD LANDS, AND TO INVEST THEM WITH THE PRIVILEGES OF NATURAL-BORN SUBJECTS OF THE SAID PROVINCE. :

Whereas by the encouragement given by the Honorable William Penn, Esquire, late proprietary and governor of the province of Pennsylvania, and by the permission of his late Majesty, King George the First of blessed memory, and his predecessors, Kings and Queens of England, &c., divers Protestants who were subjects to the Emperor of Germany, a prince in amity with the Crown of Great Britain, transported themselves and estates into the province of Pennsylvania, and since they came hither have contributed to the enlargement of the British Empire, and have always behaved themselves religiously and peaceably, and have paid a due regard and obedience to the laws and government of this province.

And whereas many of the said persons, to wit, Peter Wentz, Martin Kolb, Dielman Kolb, Jacob Kolb, Michael Ziegler, Paul Fried, Johannas Fried, Hans Datweiller, Valantine Hunsucker, Jacob Scheimer, Johannes Kocken, George Markl, Hubbard Gassell, Johannes Leseber, Jacob Herman, Gerhard Clements, Christopher Zimmerman, Jacob Metts, Bastian Smit, Mathias Gemelin, Ulrick Mayer, Christian Bowman, Abraham Schwaartz, Hermanus Kuster, John Joder, John Joder, Junior; Joest Joder, Philip Keilwein, Hans Hoch, Peter Endreas, John Dieterich Kreiner, Peter Balio, Abraham Levand, Isaac Levand, Nicholas Lescher, David Kouffman, Jean Bartolet, Hans Martin Gerich, Martin Schenkel, Jonathan Herbein, John Bowman, Arnold Huffnagle, Johannes Langenecker, Johannes Buckwalter, Johannes Eckstein, Isaac Vansintern, Johannes Dewalt End, Johannes George Bentzel, Blasius Daniel Macki-

¹ See note to Chapter 309.

net, Mathias Adams Hogermoed, Hans Rup, Lorence Belitz, Johann Nicholas Kressman, Christopher Funk, John Joseph Schrack, Philip Schrack, Johannes Shaffer, Jacob Seltzer, George Rowse, George Jager, Samuel Gouldin, Christopher Gouldin, Henry Pennebecker, Hans Sigfried, Peter Trexler, Henry Schaut, Jacob Hettlestein, Daniel Langenecker, Hans Jacob Bechtley, Melchor Hoch, Jacob Hoch, George Hollenbaik, John Jacob Schrack, John George Reif, John George Reif, Junior; Jacob Reif, Conrad Reif, Peter Reif, Antonius Hilman, Henry Antis, Gerhard Peters, John Isaac Klein, Johannes Mayer, Samuel Hoch, John Snyder, George Bechtley, Joest Hendrick Zaatmentzhoussen, all of Philadelphia county; Marcus Huhl, John Keller, Jacob Kasdrop, Johan Baker, Abraham Kinking, of the city of Philadelphia; Jacob Klemmer, Jacob Souder, Philip Keisinger, George Bachman, John Driestle, of the county of Bucks; Christian Mary, Johannes Roth, Casper Acker and Jacob Acker, of the county of Chester, in demonstration of their affection and zeal for his present Majesty's person and government, qualified themselves by taking the qualification and subscribing the declaration directed to be taken and subscribed by the several acts of Parliament made for the security of His Majesty's person and government and for preventing the dangers which may happen by Popish recusants, &c., and thereupon have humbly signified to the governor and the representatives of the freemen of this province in general assembly met that they have purchased and do hold lands of the proprietary and others His Majesty's subjects within this province, and have likewise represented their great desire of being made partakers of those privileges which the natural-born subjects of Great Britain do enjoy within this province; and it being just and reasonable that those persons who have *bona fide* purchased lands and who have given such testimony of their affection and obedience to the Crown of Great Britain should as well be secured in the enjoyment of their estates as encouraged in their laudable affection to and zeal for the English Constitution:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania,

&c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Peter Wentz, Martin Kolb, Dielman Kolb, Jacob Kolb, Michael Ziegler, Paul Fried, Johannes Fried, Hans Datweiller, Valentine Hunsucker, Jacob Scheimer, Johannes Kooeken, George Markl, Hubbard Gassell, Johannes Leseber, Jacob Herman, Gerhard Clements, Christopher Zimmerman, Jacob Metts, Bastian Smit, Mathias Gemelin, Ulrick Mayer, Christian Bowman, Abraham Schwaartz, Hermanus Kuster, John Joder, John Joder, Junior; Joest Joder, Philip Keilwein, Hans Hoch, Peter Endreas, John Districh Kreiner, Peter Balio, Abraham Levand, Isaac Levand, Nicholas Lescher, David Kouffman, Jean Bartolet, Hans Martin Gerich, Martin Schenkell, Jonathan Herbein, John Bowman, Arnold Huffnagle, Johannes Langenecker, Johannes Buckwalter, Johannes Eckstein, Isaac Vansintern, Johannes Dewalt End, Johannes George Bentzel, Blasius Daniel Mackinett, Mathias Adams Hogermod, Hans Rup, Lorence Belitz, Johan Nicholas Kressman, Christopher Funk, John Joseph Schrack, Philip Schrack, Johannes Shaffer, Jacob Seltzer, George Rowse, George Jager, Samuel Gouldin, Christopher Gouldin, Henry Pennebecker, Hans Sigfried, Peter Trexler, Henry Schaut, Jacob Hottlestein, Daniel Langenecker, Hans Jacob Bechtley, Melcher Hoch, Jacob Hoch, George Hollenbaik, John Jacob Schrack, John George Reif, John George Reif, Junior; Jacob Reif, Conrad Reif, Peter Reif, Antonius Hilman, Henry Antis, Gerhard Peters, John Isaac Klein, Johannes Mayer, Samuel Hoch, John Snyder, George Bechtley, Joest Hendrick Zaatmentzhousen, all of Philadelphia county; Marcus Huhl, John Keller, Jacob Kasdrop, Johan Baker, Abraham Kinking, of the city of Philadelphia; Jacob Klemmer, Jacob Souder, Philip Keisinger, George Bachman, John Driestle, of the county of Bucks; Christian Mary, Johannes Roth, Casper Acker and Jacob Acker, of the county of Chester, be and shall be to all intents and purposes deemed, taken and esteemed His Majesty's natural-born subjects of this province of Pennsylvania, as if they and each of them had been born within the said province; and shall and may, and every of them shall and may, within

this province, take, receive, enjoy and be entitled to all rights, privileges and advantages of natural-born subjects as fully to all intents, constructions and purposes whatsoever as any of His Majesty's natural-born subjects of this province can, do or ought to enjoy by virtue of their being His Majesty's natural-born subjects of His Majesty's said province of Pennsylvania.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Acts of Assembly passed February 3, 1742-43, Chapter 359; June 20, 1759, Chapter 445; (the Constitution of 1776, Plan of Government, Section XLII;) June 13, 1777, Chapter 756; August 31, 1778, Chapter 803; March 4, 1786, Chapter 1206; February 11, 1789, Chapter 1387.

CHAPTER CCCXXV.

AN ACT FOR THE RELIEF OF BENJAMIN MAYNE, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas it hath been represented to the assembly of this province by Benjamin Mayne, late of Philadelphia, merchant, that he traded and lived several years in good credit in the province of Pennsylvania, before the year one thousand seven hundred and twenty-one, and in his way of merchandising had become debtor to sundry merchants in the said province and others; and being encouraged by a prospect of a ready sale of [his] goods in Salem county in New Jersey, he thereupon transported part of his merchandise thither, leaving at the same time considerable effects, with all his books of accounts, and household goods at his dwelling-house and store in Philadelphia; and had then likewise very considerable sums of money due to him for goods sold in the province of Pennsylvania and elsewhere, in the whole amounting to more in value than all the debts he owed in America. And that the said Benjamin being obliged to be frequently in Salem county aforesaid for

disposing of his said goods, some of his creditors when he had not been gone from his own house in Philadelphia above three days took the advantage of his absence, and by virtue of a law of this province then in force took out several writs of attachment against his effects in Philadelphia, by virtue whereof all his merchandise, goods and chattels, household goods and books of accounts, bonds and notes for moneys, were attached and seized by the sheriff of Philadelphia, and soon after all his said effects were sold for less than one-half of the real value, to the utter ruin of the said Benjamin Mayne, whereby he was not only totally disabled to pay his just debts, but rendered liable to perpetual imprisonment; which representation appearing to be true, and the said Benjamin Mayne having likewise set forth that if he might obtain his liberty or the freedom of his person from arrests there are still considerable debts due to him from sundry persons in Pennsylvania and elsewhere which he is willing to assign over, together with all the effects or estate he hath in the world of what kind soever he is possessed or hath any right to in law or equity, to any person or persons in trust, to recover for the use and benefit of all his creditors:

Wherefore as well to relieve the said Benjamin Mayne from the distress of imprisonment of his person as to render his liberty beneficial to his creditors:

We the representatives of the freemen of the said province do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the said representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if the said Benjamin Mayne shall before the fifteenth day of June next ensuing exhibit to the justices of the city and county of Philadelphia, in the county court of common pleas to be held for the said city and county, a true and perfect account of all his estate both real and personal, with the dates of the securities wherein any part of his estate or effects consist, and the deeds or notes relating thereto, and the names of the witnesses who can prove the same as far as his knowledge extends thereto,

the said court shall upon the petition of the said Benjamin Mayne, and exhibiting such accounts as aforesaid, with the names of his creditors at whose suit he is imprisoned, cause the said Benjamin Mayne by order or rule of court to be brought up and the creditors at whose suit he stands charged to be summoned to appear personally or by their attorney in court at a day to be appointed for that purpose. And the said court shall then and there, in the presence of the creditors if they will be present, administer an affirmation to the said Benjamin Mayne to the effect following:

I, Benjamin Mayne, do solemnly, sincerely and truly declare and affirm, that the account by me delivered into this honorable court in my petition to this court doth contain a true and perfect account of all my real and personal estate, debts, credits and effects whatsoever which I, or any in trust for me have, or at the time of my said petition had, or am or was in any respect entitled to, in possession, remainder or reversion (except the wearing apparel and bedding for me or my family, not exceeding ten pounds in value in the whole), and that I have not at any time since my imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of or made over in trust for myself or otherwise, other than as mentioned in such account, any part of my lands, estate, goods, stock, money, debts or other real or personal estate, whereby to have or expect any benefit or profit to myself or to defraud any of my creditors to whom I am indebted.

And the said Benjamin Mayne having taken such affirmation in open court, and his creditors being therewith satisfied or failing to discover any effects or estate of the said Benjamin Mayne omitted in such his account; and the said Benjamin making an assignment to any one or more of his creditors as the court shall think fit to direct in trust for the rest of them of all his lands, goods and effects contained in such account by a short endorsement on the back of the same account or schedule, by which assignment the estate, interest and property of the lands, goods and effects as assigned shall be vested in the person or persons to whom such assignment shall be made, who may take possession of the same and sue for the same in his or their own name or names, and that no release of the said Benjamin Mayne, his executors or administrators,

subsequent to such assignment shall be any discharge, then the said court upon his making such assignment as aforesaid shall cause the said Benjamin to be discharged.

[Section II.] And be it further enacted by the authority aforesaid, That the person of the said Benjamin after such his discharge as aforesaid shall not at any time hereafter be imprisoned for any debts by him before that time contracted.

Provided nevertheless, That the discharge of the said Benjamin Mayne by virtue of this act shall not acquit any other person from such debt, sum or sums of money for which such person is bound or engaged for or with the said Benjamin, but that all others shall be answerable for the same in such manner as they were before the passing of this act.

[Section III.] Provided also, and be it further enacted by the authority aforesaid, That if the said Benjamin Mayne shall upon any indictment for taking a false and corrupt affirmation in any matter or particular contained in the said affirmation be convicted by his own confession or by the verdict of twelve men, as he may be by force of this act, the [said] Benjamin shall suffer all the pains and forfeitures which may by law be inflicted on any person convicted of willful perjury and shall likewise be liable to be taken upon any process *de novo*, and charged in execution for the said debt in the same manner as if the said Benjamin Mayne had never been discharged or taken in execution before, and shall never after have the benefit of this act.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed February 14, 1729-30, Chapter 315; and the Act of Assembly passed February 24, 1770, Chapter 611.

CHAPTER CCCXXVI.

AN ACT TO DISABLE WILLIAM FISHBOURN FROM HOLDING ANY OFFICE OF TRUST OR PROFIT WITHIN THIS PROVINCE AND TO SECURE THE PAYMENT OF A PROVINCIAL DEBT DUE FROM THE SAID WILLIAM FISHBOURN.

Whereas the office of a trustee of the general loan office of the province of Pennsylvania is an office of great importance, upon the due execution of which as well the security of the province in general as that of particular persons very much depends.

And whereas William Fishbourn, of Philadelphia, gentleman, being one of the trustees of the said general loan office from the year one thousand seven hundred and twenty-two, to the month of August, one thousand seven hundred and thirty, and during that time was intrusted with the lending out upon good security and receiving in again and sinking and destroying the bills of credit made current by several acts of assembly of this province, according to the tenor and directions of the said several acts of assembly.

And whereas it is manifest by several accounts and reports of the committee of the general assembly of this province, and it hath appeared upon a full hearing before the house of representatives of the freemen of the said province, in the presence of the said William Fishbourn, that during his continuance in the said office of trustee of the general loan office aforesaid he had fraudulently concealed and applied to his own use a considerable sum of the said bills of credit in high violation of his trust and in open breach of the duty of his office and contrary to the tenor and directions of the said laws, to the great damage of the public and to the great disappointment of many of the inhabitants of this province who had occasion to borrow the said bills of credit upon good land security, as by the said acts is provided.

And whereas the continuance of the said William Fishbourn

in such high trusts may tend as well to the prejudice of the province as to the injury of particular persons with whom he may have to do in a public capacity:

For preventing which mischiefs and inconveniencies:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act until the end and expiration of five years next ensuing the said William Fishbourn shall be and is hereby disabled and rendered incapable of being a member of [the] general assembly of this province or to hold and enjoy any place, office or employment of profit or trust within the said province of Pennsylvania.

And whereas the said William Fishbourn stands indebted to the province of Pennsylvania in the sum of one thousand seven hundred and seventy-nine pounds eighteen shillings and three farthings, which ought to be forthwith paid unto the trustees of the general loan office in order to be let out upon loan on good land security to persons having occasion to borrow the same, yet forasmuch as it appears the immediate levying so great a sum of money upon the estate of the said William Fishbourn might very much affect the circumstances of his family:

[Section II.] Be it therefore enacted by the authority aforesaid, That the trustees of [the] general loan office of the said province are hereby empowered to take and receive of the aforesaid William Fishbourn such lands, tenements, rents and hereditaments of which he is seized in fee-simple, clear of incumbrances, the proprietary rents and such other rents as shall be discovered to them only excepted, as they shall judge sufficient for securing the payment of the said sum of one thousand and seven hundred and seventy-nine pounds eighteen shillings and three farthings with interest of five per cent per annum within the space of five years by equal payments, so as the lands and ground-rents be at least double the value and

houses treble the value of the sum for which they shall be taken in security.

Passed February 6, 1730-31. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed January 19, 1733-34, Chapter 334.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1731, and continued by adjournment until the thirteenth day of August, 1732, the following acts were passed:

CHAPTER CCCXXVII.

AN ACT FOR REVIVING AND CONTINUING THE PROCEEDINGS OF THE COURTS OF JUDICATURE WITHIN THIS PROVINCE.

Whereas an act of general assembly of this province, made in the year one thousand seven hundred and twenty-six and in the thirteenth year of the reign of his late Majesty, King George the First of blessed memory, entitled "An act for establishing courts of judicature within this province,"¹ which act (supposed to supersede or repeal one other act of assembly of this province, entitled "An act for establishing courts of judicature within this province,"² made in the year one thousand seven hundred and twenty-two) is since repealed by the King in Council. And whereas without some [provi] sion be made for the confirmation of such judgments as have been rendered since the repeal of the said act [and] for the continuance of such process as are depending in the several courts within this province many suitors [may] be [dis]appointed and such judgments may be reversed, and the process upon indictments or informations depending in the several courts of Pennsylvania may be discontinued.

It is therefore humbly prayed that it may be enacted:

[Section I.] And be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no indict-

¹ Passed August 27, 1727, Chapter 298.

² Passed May 22, 1722, Chapter 255.

ment, plea, suit or action in which judgment hath been rendered since the repeal of the said last-recited act of assembly nor any process thereupon shall be abated, quashed, reversed or judged null or void for or by reason of the repeal of the said act of assembly made in the year one thousand seven hundred and twenty-six; but that the said judgments, suits and process shall be and are hereby declared to be good and valid in law, as if the said act had never been repealed. And that no indictment, presentment, action, suit, plea, process or other matter now depending in any court of record within this province shall be discontinued, abated, quashed, nulled or reversed [for or] by reason of the repeal of the said last-mentioned act of assembly only; but that the judges and justices of the respective courts within this province shall by virtue of the said act of [assembly made in the year on thous] and seven hundred and twenty-two, now again come in force [by repeal of the said act of the thirteenth] of King George the First, proceed to hear [try and determ]ine all causes civil and criminal now depending, and the proceedings of the several courts of judicature within this province be and are hereby confirmed, so that no advantage shall be taken of or for any want of authority, defect of jurisdiction or error [on such proceedings] occasioned by such repeal only but that all such de [fects and] errors [be] and are hereby aided according to the true intent and meaning of the said act [as] if the same had not been repealed, any law, statute or usage [to] the contrary notwithstanding.

Passed November 27, 1731. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I.

CHAPTER CCCXXVIII.

AN ACT FOR REPEALING AN ACT, ENTITLED "AN ACT FOR CONTINUING THE ENCOURAGEMENT FOR RAISING GOOD HEMP WITHIN THIS PROVINCE," &c.¹

Whereas by an act of assembly passed in the third year of the reign of his present Majesty, entitled "An act for continuing the encouragement for raising good hemp within this province," &c., it was, amongst other things therein contained, enacted that there should be paid out of the public revenue of this province by the officer therein appointed the sum of one penny halfpenny for every pound of good, sound, well-ordered and merchantable water-rated [sic] hemp raised within this province from and after the time of the publication of the said act until the first day of May, which will be in the year one thousand seven hundred and thirty-three.

And whereas it hath on experience been found that the price to be had for the commodity aforesaid is a sufficient encouragement for the raising thereof without the payment of so large a bounty, and that by reason of the large quantities of hemp likely to be raised within this province the continuance of so considerable a premium would prove too great a burden for the inhabitants to bear:

Therefore may it please the governor that it may be enacted, and

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by authority of the same, That the bounty aforesaid shall only be paid for such good, sound, well-ordered and merchantable water-rated hemp raised within this province which shall be imported in the city of Philadelphia pursuant to the

¹ Passed February 14, 1729-30, Chapter 316.

tenor of the act aforesaid on or before the first day of July next ensuing, and that from and after the time last aforesaid the premium aforesaid shall cease to be paid. And the act of assembly aforesaid and every clause, part and paragraph thereof shall be void and of no effect, anything therein contained to the contrary thereof notwithstanding.

Passed January 10, 1731-32. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1731, and continued by adjournments until the fifteenth day of August, 1732, the following acts were passed:

CHAPTER CCCXXIX.

AN ACT DIRECTING THE MANNER OF PAYMENT OF ASSEMBLYMEN'S WAGES.

Whereas the great scarcity of gold and silver in this province made it necessary to emit bills of credit as a medium for trade and to be let out upon loan or land security at the interest of five per cent per annum.

And whereas the frequent meetings and long sessions of assembly occasioned by making the several acts for emitting the said bills of credit brought a great charge upon the respective counties for paying assemblymen's wages and defraying other charges, and it being reasonable that the several counties within this province who were at an equal charge in making the said laws, should as near as may be receive an equal benefit by the interest moneys arising on the said bills of credit emitted in pursuance of those laws:

[Section I.] Be it therefore enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the wages that shall hereafter become due to the representatives of the freemen of the said province for their services in general assembly shall be paid to them respectively out of the said interest-money by orders of the house of representatives to be drawn on the trustees of the general loan office of Pennsylvania for the time being, who are hereby enjoined and required to

pay the same accordingly out of the interest-moneys arising upon the said bills of credit in their hands.

[Section II.] And be it further enacted by the authority aforesaid, That so much of an act of assembly of the province, entitled "An act for raising county rates and levies,"¹ as directs the payment of assemblymen's wages shall be and is hereby repealed during the continuance of this act.

This act to continue for the space of three years and no longer.

Passed August 13, 1732. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and note to the Act of Assembly passed January 12, 1705-6, Chapter 137.

CHAPTER CCCXXX.

A SUPPLEMENTARY ACT TO THE ACT FOR RAISING COUNTY RATES AND LEVIES.

Whereas it is found by experience that the method for assessing the inhabitants of the province of Pennsylvania and the disposition of the moneys raised by virtue of an act of assembly of this province, entitled "An act for raising county rates and levies,"² has not altogether answered the good ends proposed by that act, and some doubts having arisen concerning the time of the commissioners' continuance in their office of commissioners and of the powers of the said commissioners and assessors by the aforesaid act:

To the end therefore that those doubts may be removed and that it may be known how the moneys raised by virtue of the said act of assembly is disposed of and to what uses the same is applied:

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania,

¹ Passed March 20, 1724-5, Chapter 284.

² Passed March 20, 1724-5, Chapter 284.

&c., by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That no person or persons whatsoever who is or hereafter shall be chosen a commissioner for any of the counties within this province shall serve as a commissioner for any longer time than the space of three years at one time, and if any such person be re-elected in the same county where before he had served as commissioner the preceding year, such election shall be void, and the next person being qualified to be elected as the law directs having the greatest number of votes for commissioner shall be and is hereby declared to be the commissioner legally elected and shall be qualified and serve accordingly.

[Section II.] And be it further enacted by the authority aforesaid, That the commissioners, assessors and treasurers of the several counties within this province shall, at the respective courts of general quarter-sessions of the peace to be held for the counties of Philadelphia and Bucks in the month of September, and at the respective courts of general quarter-sessions of the peace to be held for the counties of Chester and Lancaster in the month of August, yearly exhibit to and lay before the justices and grand juries of the said respective counties to which they belong, as well the books of entries and accounts directed by the aforesaid act to be kept by the treasurers, as a true and particular account of all the moneys by them or any of them assessed and raised by virtue of their several offices, as also an account to whom and for what use or uses the same money and every part and parcel thereof was paid out again, with the proper vouchers if required; which books, accounts and receipts or vouchers being seen and examined by the justices and grand juries of the said respective counties, the said books and receipts or vouchers shall be delivered back safely, without alteration, to the respective treasurers; and the accounts shall be filed and kept among the records and proceedings of the said court of general quarter-sessions of the peace for such county.

And whereas by an act of assembly made in the twelfth year of the reign of the late King William the Third, entitled "An

act for erecting bridges and maintaining highways," &c.,¹ it is provided that the county courts, with the concurrence of the grand jury, shall agree with and appoint some persons to build bridges in their respective counties; and the commissioners and assessors having of late, by color of the aforesaid act of assembly for raising county levies, claimed a power of directing the building of bridges and of agreeing with workmen for doing the same without the concurrence of any court or grand jury:

Therefore, to prevent for the future any mistakes or misunderstandings concerning the power of the commissioners and assessors:

[Section III.] It is hereby further declared and enacted, That the grand juries, commissioners and assessors, with the concurrence of the justices of the general quarter-sessions of the peace, shall be the sole judges of the place where any bridge shall be built and maintained over any creek or rivulet within the respective counties to which they belong; and that the commissioners and assessors, with the concurrence of the justices of the said respective counties at their respective general quarter-sessions of the peace, shall agree with workmen for building, repairing and maintaining any bridge or bridges ordered to be built or repaired as aforesaid within their respective counties; and that the commissioners for the time being shall allow of and pay the moneys becoming due for the same accordingly.

Passed August 15, 1732. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section 1.

As to Section I, see the Acts of Assembly passed April 11, 1799, Chapter 2095; April 15, 1834, P. L. 537; (the Constitution of) 1873, Article XIV, Section VII.

As to Section II, see the note to the Act of Assembly passed March 20, 1724-5, Chapter 284; and the Acts of Assembly passed March 30, 1791, Chapter 1543; March 6, 1793, Chapter 1658; April 11, 1799, Chapter 2095; April 15, 1834, P. L. 537; April 28, 1840, P. L. 467; May 23, 1887, P. L. 178.

As to Section III, see the note to the Act of Assembly passed November 27, 1700, Chapter 57; and the Acts of Assembly passed

Passed November 27, 1700, Chapter 57.

April 6, 1802, P. L. 178; March 30, 1811, P. L. 189; March 29, 1819, P. L. 272; June 13, 1836, P. L. 551; April 13, 1843, P. L. 221; March 11, 1844, P. L. 86; May 7, 1844, P. L. 568; February 24, 1845, P. L. 52; April 5, 1849, P. L. 341; April 26, 1850, P. L. 615; April 12, 1851, P. L. 536; March 31, 1854, P. L. 247; April 6, 1854, P. L. 295; May 5, 1854, P. L. 561; April 12, 1855, P. L. 220; April 15, 1857, P. L. 205; March 30, 1859, P. L. 309; March 25, 1861, P. L. 206; March 21, 1870, P. L. 498; April 9, 1870, P. L. 1070; (the two acts of) April 16, 1870, P. L. 1199, 1204; May 19, 1874, P. L. 298; May 5, 1876, P. L. 112; June 8, 1881, P. L. 67; June 16, 1891, P. L. 305; April 19, 1895, P. L. 39; June 3, 1895, P. L. 130.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1733, and continued by adjournments until the seventeenth day of August, 1734, the following acts were passed:

CHAPTER CCCXXXI.

AN ACT FOR REVIVING AN EXCISE ON WINE, RUM, BRANDY AND OTHER SPIRITS.

Whereas by an act of assembly of this province, entitled "An act for emitting and making current thirty thousand pounds in bills of credit,"¹ passed in the tenth year of the late King George, it was among other things therein contained provided that the sum of thirteen hundred pounds in the said bills should be delivered to the treasurer of this province to discharge several debts due from the said province, which said sum and the bills of credit formerly lent to the same end were to be sunk as the money due or to be due to the province from the collectors of the impost and excise by virtue of the acts therein mentioned was paid to the treasurer aforesaid. And whereas the act, entitled "An act for laying a duty on all wine, rum, brandy and other spirits whatsoever,"² in the said act mentioned is now expired by its own limitation and part of the money lent as aforesaid is as yet unpaid:

Therefore, to the end further provision be made for the payment of the said public debts and defraying other necessary charges of government:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the

¹ Passed December 12, 1723, Chapter 275.

² Passed December 12, 1723, Chapter 276.

representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be throughout this province raised, levied, collected and paid for all rum, brandy and other spirits sold, drawn or bartered by any person or persons whatsoever by any quantity under seventy gallons, and for all wine sold, drawn or bartered under the quantity of one hogs-head and to be delivered at one time and to one person at any time after the twenty-fifth day of this instant month called January, one thousand seven hundred and thirty-three, and before the twenty-fifth day of the month called January, one thousand seven hundred and thirty-six, the rate or sum of four pence per gallon, and so proportionably for a greater or lesser quantity.

[Section II.] And be it further enacted by the authority aforesaid, That every retailer of all or any of the said liquors, before he or they draw, sell or barter any of the said liquors, shall enter his or her name and place of abode with the collectors of the respective counties hereinafter appointed or their deputies in books to be by them kept for that purpose, and shall also take and have from the said collectors or their deputies respectively a permit for drawing or selling such liquors, for which entry and permit they shall pay one shilling and no more.

Provided always, That no such permit or license be granted to any person or persons to retail the liquors aforesaid the rates and duties whereof (by this act imposed) do not amount to the value of three pounds per annum, and so in proportion for a lesser time, unless such retailer or retailers at the time of their obtaining such permit and license as aforesaid will undertake (and give security if thereunto required by the said collectors respectively) well and truly to pay so much to the said collectors as shall make up the rates and duties by this act imposed the sum of three pounds per annum, and so proportionably for a longer or shorter time.

And all such retailers and every one of them are hereby enjoined once in every three months or oftener if required to

make true and particular entries with the collector [sic] or their deputies aforesaid respectively upon oath or affirmation (which the said collectors or their deputies are hereby fully empowered to administer) of all wine, rum, brandy and other spirits which they or any of them shall have vended, bartered or retailed within that time, and so from time to time during the continuance of this act; and shall and are hereby required to account and pay unto the said collectors or their deputies respectively once in every three months or oftener if required all such sum and sums of money as shall become due and payable by virtue of this act.

[Section III.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid shall on the entry of the names and places of abode with the officers aforesaid give unto the said collectors or their deputies an exact and true account of all wine, rum, brandy and other spirits which shall be in their possession at the time of entry aforesaid and of whom purchased; and shall also from time to time after the said twenty-fifth day of this instant month called January, before they take into their houses, shops, cellars, vaults or stores any cask or quantity of liquors liable to pay the duties imposed by this act, make entry of all and every of [sic] such cask or quantity of liquors with the collectors aforesaid or their deputies respectively, with the marks, numbers and contents thereof and of whom purchased, and shall receive from him a certificate or duplicate of such entry if required by the party, for which entry and certificate the said retailer shall pay six pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That if any retailer shall presume to retail, draw, sell or barter any of the liquors aforesaid without having first entered his or her name and place of abode with the collectors or their deputies as this act directs, every such retailer shall forfeit and pay the sum of five pounds over and above the duties for all such liquors retailed by them as aforesaid.

Or if after such entry made any such retailer shall refuse or neglect to make true and particular entries every three months

as directed by this act, or shall refuse or neglect to account with or pay to the said collectors or their deputies what shall appear to be due by this act upon the entries made by them as aforesaid once in every three months or oftener if thereunto required, every such retailer shall forfeit and pay for so neglecting or refusing to enter the liquors drawn every three months respectively and to account and pay as aforesaid, for the first offense the sum of forty shillings, and for the second and every other offense five pounds, and have their permit or license taken away, and are hereby declared incapable of retailing or selling any of the liquors aforesaid during the continuance of this act.

[Section V.] And be it further enacted by the authority aforesaid, That if any person shall make short or fraudulent entries of the liquors in his or her possession as aforesaid, or shall neglect or refuse to enter and take permits for such liquors as he or she shall receive into his or her house, shop, cellar, vault, store or other place after the twenty-fifth day of this instant month called January, all such liquors not entered as aforesaid shall be forfeited; and the collectors hereafter named or their deputies are hereby respectively empowered to enter at any time when they shall see convenient the house, cellar, vault, shop or store of any retailer, and to compare the liquors in such house, cellar, vault, shop or store with the entries made, and to seize and take away all such liquors as shall be found not truly entered as aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That the said collectors or their deputies may enter into any house, cellar, vault, store or other room to search, examine and gauge the liquors of any retailer as often as he or they shall see fit; and upon their refusing him liberty so to do, he may force and break open doors to gauge and examine the same, and in case of opposition, if necessity requires, shall take to his assistance the sheriff or one or more constables of the town or county respectively, who without any other warrant are hereby under the penalty of five pounds for every refusal or neglect required to be aiding and assisting to the said collectors and their deputies therein for the better and more

effectually collecting the duties, penalties and forfeitures imposed by this act.

Provided always, That there shall be allowed by the collectors or their deputies unto the several retailers of the liquors aforesaid fifteen per cent for leakage and wastage; and if any cask shall happen to start or burst, no duties shall be reckoned for so much of the said liquors as such retailer shall prove was lost thereby.

[Section VII.] And be it further enacted by the authority aforesaid, That John Hyatt, of Philadelphia, gentleman, shall be and is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that John Hall, of Bucks county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that John Owen, of Chester county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Chester; and that James Mitchell, of Lancaster county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Lancaster; which said several collectors are hereby severally empowered by themselves or their deputies, to be by them duly constituted and for whom they shall be accountable, to demand, collect, receive and recover the excise appointed to be paid by this act of and from all and every person and persons (within the respective counties and places for which they are appointed) retailing or vending any of the liquors by this act liable to pay the duties aforesaid, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or [that] shall happen to arise or become due for anything done contrary to the true intent and meaning of this act.

And the said collectors are hereby required to keep true and fair accounts in writing of all their doings in the premises, which accounts they shall when thereunto required submit to the view and inspection of the provincial treasurer for the time being, and thereupon settle and adjust the said accounts and also lay the same before the assembly of this province when and so often as they shall be thereunto required.

And the said collectors and each of them shall once in three months or oftener if required pay in to the provincial treasurer

all such sums of money as they shall receive by virtue of this act, deducting out of the same ten per cent for all sums by them received for their trouble and care in collecting and paying the same, and shall be further allowed in the final adjusting their accounts with the assemblies of this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

And the said treasurer out of the moneys by him to be received of the collectors aforesaid shall duly pay in to the trustees of the general loan office of this province the quotas yet remaining unpaid of the [said] thirteen hundred pounds as the same shall become due in the manner directed by the first-cited act for making [current] thirty thousand pounds in bills of credit, and for the remainder of the said moneys shall be accountable to the assembly of this province, retaining thereout five pounds per cent for his trouble in receiving and paying the same.

And the said respective collectors before they enter upon the execution of their said respective offices are hereby required to give bonds with two sufficient sureties to the said treasurer for the time being in manner following: (That is to say) John Hyatt, collector of the excise, &c., for the city and county of Philadelphia, in the sum of four hundred pounds; John Hall, collector of the excise, &c., for the county of Bucks, in the sum of one hundred pounds; John Owen, collector of the excise, &c., for the county of Chester, in the sum of two hundred pounds; and James Mitchell, collector of the excise, &c., for the county of Lancaster, in the sum of one hundred pounds, for the faithful discharge of their respective duties and for their respective accounting and paying all such sums of money as they shall from time to time receive by virtue of this act.

And the said collectors are hereby required to give public notice by printed advertisements fixed on convenient public places, certifying the time of the commencement of this act and also the duties hereby imposed, with notice to the constables of their duty and full directions how and when entries are to be made in pursuance of this act.

[Section VIII.] Provided always, and be it further enacted,

That in case the said John Hyatt, John Hall, John Owen and James Mitchell or either of them shall refuse to take upon him or them to be the collector or collectors of the said duties, or having taken the same upon him or them shall afterwards neglect or decline the same or misbehave him or themselves therein or die during the continuance of this act, that then and in any such case the provincial treasurer shall appoint another or others in the place and stead of such person or persons so refusing, neglecting, misbehaving or dying, who shall have the same power and authority and shall be liable to the same restrictions and penalties as by this act is given to the collectors herein named until others shall be appointed by the assembly.

[Section IX.] And be it further enacted by the authority aforesaid, That no person or persons within this province shall during the continuance of this act retail less than one quart of rum, wine, brandy or other spirits, to be delivered at one time and to one person, unless such person or persons shall be regularly recommended to the governor for the time being and by him licensed according to the direction of an act of assembly of this province in that case made and provided. And if any person or persons shall presume during the continuance of this act to retail within this province less than one quart of wine, rum, brandy or other spirits to be delivered at one time and to one person without being legally recommended and licensed as aforesaid, he, she or they so offending shall forfeit and pay the sum of five pounds over and above the duties for all such liquors by them retailed as aforesaid or be committed to the workhouse or prison of the respective county where the offense shall be committed, there to be kept at hard labor for the space of five months, anything herein contained to the contrary notwithstanding.

[Section X.] And be it further enacted by the authority aforesaid, That all and every such person and persons who by virtue of licenses obtained from the governor shall be allowed to retail wine, rum, brandy or other spirits in less quantity than a quart as aforesaid, every such retailer or retailers who shall apply him, her or themselves to the justices of the court of quar-

ter-sessions of the counties to which he, she or they respectively do belong for a recommendation to the governor to renew their licenses for keeping of a public house or houses and retailing as aforesaid, every such person and persons shall on every such application and before any recommendation obtained produce certificates from the collectors of the said counties respectively to which he, she or they belong of having discharged all arrearages of money due to the said collectors or either of them for the rates and duties by this act imposed, or otherwise the said justices are hereby enjoined and required not to recommend such person and persons for the purpose aforesaid; and every such person or persons are hereby declared incapable of retailing any of the liquors aforesaid in less quantities than one quart as aforesaid; and in case any such person or persons shall, notwithstanding, retail in less quantities than one quart as aforesaid, he, she or they so offending shall be liable to such and the same penalties and forfeitures as by this act is imposed on other persons.

And for the better discovery of frauds and abuses:

[Section XI.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this province upon application made by any one of the said collectors or other person to summon any person or persons to appear before such justice at such time and place as he shall appoint, to give evidence upon oath or affirmation for discovery of frauds and abuses committed against this act. And if any person or persons summoned as aforesaid shall neglect or refuse to appear and give evidence as aforesaid, he, she or they so offending shall for every such offense be fined by the justice that issued out the summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section XII.] And be it further enacted by the authority aforesaid, That all the forfeitures and offenses made, done and committed against this act or any clause or article therein contained shall be heard, adjudged and determined by such person or persons and in such manner and form as herein is directed: (That is to say) all such forfeitures and offenses made and committed within the city of Philadelphia shall be heard, adjudged

and determined by any two or more of the aldermen of the said city; and all such forfeitures and offenses made and committed within any of the counties within this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeitures shall be made or offenses committed.

And if the party finds him or herself aggrieved by the judgment given by the said aldermen or justices, he or she may appeal to the justices of the peace of the next court of general quarter-sessions of the peace to be held for the respective city or county where the judgment shall be given, which court is hereby empowered and authorized to hear and determine the same and whose judgment therein shall be final.

Provided always, That no alderman or justice who shall sit on the first hearing of any such cause shall sit to hear and determine in the same cause in case any appeal shall happen to be made therein.

And the said aldermen and justices of the said city and counties of this province are hereby authorized and strictly enjoined and required, upon any complaint or information exhibited and brought of any such forfeiture made and offense committed contrary to this act, to summon the party accused, and upon his or her appearance or contempt to proceed to examination of the matters of fact, and upon due proof thereof, either by confession of the party or by the oath or affirmation of one or more credible witnesses, to give judgment or sentence as before is directed, and to award and issue out warrants under their hands and seals for the levying of such forfeitures, penalties and fines as by this act is imposed for any such offenses committed upon the goods and chattels of such offender, and to cause sale to be made of such goods and chattels (if they are not redeemed within five days), rendering to the parties the overplus if any be, the charges of distress and sale being first deducted, and for want of sufficient distress to imprison the party offending until satisfaction made.

[Section XIII.] And be it further enacted by the authority aforesaid, That if the said magistrate, officer or any sheriff or constable shall be sued and prosecuted for anything done by

them in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for his or their justification; and in case a verdict shall be given against the prosecutor or he shall become nonsuit or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in other cases.

[Section XIV.] And be it further enacted by the authority aforesaid, That all and every the constables of the respective townships or districts in this province shall and are hereby required, under the penalty of the forfeiture of twenty shillings for every refusal or neglect, to return on oath or affirmation unto the court of quarter-sessions in their respective counties the names and places of abode of all persons in their several townships or districts retailing or vending any liquors liable to pay the duties imposed by this act, and that the collector of such respective county may and shall have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising upon this act.

And whereas it has been the practice of divers persons that were not retailers of the said liquors formerly to draw off certain quantities of wine, rum and other spirits and distribute the same amongst their neighbors, on purpose to elude the payment of excise:

For prevention whereof for the future:

[Section XV.] It is hereby enacted and declared, That such drawing, distributing or sharing of any rum, wine, brandy or other spirits out of any cask or casks whatsoever into any quantity or quantities less than seventy gallons each shall be deemed and taken to be retailing within the meaning of this act.

Provided always nevertheless, It shall and may be lawful to and for any distiller in this province to sell to any retailer or retailers any quantity of spirits of his own distilling not less than ten gallons to one person and to be delivered at one time, first making entry thereof with the collector of the county where he resides, with the retailer's name and place of abode to whom sold and number of gallons, and also at the same time taking an oath or affirmation that the same spirits by him sold as aforesaid were *bona fide* distilled in this province and from

materials of the growth or produce of the said province, and are clear of all mixtures of rum or any other foreign spirits whatsoever (and the said retailer shall account for and pay the duty thereof to the said collector, pursuant to the directions of this act), anything herein contained to the contrary in anywise notwithstanding.

Provided also, That the collectors of the excise aforesaid nor any of them nor their or either of their deputies nor any other person or persons to be appointed in their or either of their places or stead shall during the continuance of this act vend, barter, sell, exchange or trade in any of the liquors aforesaid made excisable by this act under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person who will sue for the same to effect, one-half thereof to the use of the person so suing, the other half to be paid in to the provincial treasurer aforesaid towards the support of the government of this province; and the person or persons duly convicted of any such offense or offenses against this act is and are hereby disabled from acting any longer in their respective offices; and the treasurer aforesaid is hereby authorized and required to name another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the collectors named in this act until others are appointed by the general assembly of this province.

Passed January 19, 1733-34. Expired before being considered by the Crown. See the Act of Assembly passed August 25, 1738, Chapter 346.

CHAPTER CCCXXXII.

AN ACT TO PREVENT THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE.

Whereas by a law of this province made for preventing the exportation of flour not merchantable, the credit of the said province in one of its most considerable branches hath in some

measure been retrieved; but forasmuch as it becomes the prudence of the legislature to do all that in them lies to advance the credit of this our staple commodity in foreign markets, and it having been found by experience that some farther regulations may be necessary to promote the good intention of the said act:

Therefore to the end that the said credit of our trade and the benefits thence arising may be continued and improved:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That every bolter of flour and baker of bread residing or (at any time hereafter during the continuance of this act) to reside within this province shall, each one for himself, provide and have a distinguishable brand-mark, and shall therewith brand each and every cask of flour or biscuit of his own bolting or baking before the same shall be removed from the place where the same was so as aforesaid bolted or baked under the penalty of one shilling for every cask so removed and not branded as aforesaid; but before any such bolter or baker shall bolt any flour or bake any bread for exportation out of this province, every such bolter or baker shall cause such his brand-mark, together with his name and place of abode, to be entered with the clerk of the court of quarter-sessions for the county where he doth reside (if not already done), and so from time to time as often as any such bolter or baker shall move the place of his residence from one county of this province into another, within the space of one month after such removal or any alteration of his brand-mark he shall there cause his mark, name and place of residence to be entered with the clerk of the respective county, for recording whereof the clerk shall have and receive one shilling each and no more, and every bolter or baker offending herein shall forfeit and pay the sum of twenty shillings for every such offense.

[Section II.] And be it enacted by the authority aforesaid,

That all wheat flour bolted for exportation from and after the publication of this act shall, by the bolter thereof, be and be made merchantable and of due fineness without any mixture of coarser or other flour, and honestly and well packed in good, strong casks well made, and of staves thoroughly seasoned, with the tare thereof thereupon marked, the cask being first weighed by weights tried by or made agreeable to the standard of weights in this province, wherewith the bread and flour packed shall also be weighed, and each and every cask thereof (bread in tight casks excepted) shall be well and sufficiently nailed before the same be moved or carried from the place where the same was made as aforesaid. And if any bolter or baker shall offend in all or any of the premises, he, she or they shall forfeit and pay for every such offense the sum of one shilling for each cask.

[Section III.] And be it enacted by the authority aforesaid, That if any person or persons shall put a false or wrong tare on any cask of flour or bread to the disadvantage of the purchaser, he, she or they shall forfeit and pay for every such cask falsely tared as aforesaid the sum of five shillings. And the officer for each county respectively or his deputy, upon suspicion or upon the request of the buyer, shall and are hereby required to unpack any such cask of flour or bread in order to try the tare thereof, and if the said cask or casks be found to weigh more than is marked thereon, the baker or bolter shall pay the charge of unpacking and repacking over and above the five shillings for each cask as aforesaid; but if the tare thereon marked be found just and true, then the officer (or purchaser, if the trial be made at his request) shall pay the costs of unpacking and repacking.

[Section IV.] And be it enacted by the authority aforesaid, That every miller or bolter of flour and every baker of bread for exportation as aforesaid shall deliver with the said flour or bread an invoice of the contents thereof with his said brand-mark made thereon, together with his name signed thereto, under the penalty of forty shillings for every invoice delivered contrary to the true intent and meaning hereof. And if any cask or casks of flour or bread upon trial be found lighter than

is set down in the said invoice, every such bolter or packer thereof shall forfeit and pay three pence for every pound of flour or bread the same is found wanting or lighter than invpiced. And if any person or persons shall be convicted of any other willful fraud or cheat in packing of flour or bread or of willfully making a fraudulent invoice of the net proceeds or weight of any flour or bread, the person offending therein shall forfeit and pay the sum of five pounds for every such offense.

[Section V.] And be it enacted by the authority aforesaid, That no cart, wain or wagon shall be made use of for the carrying or conveying of flour or bread from any mill or other place to the place of exportation or to any landing place but such as shall have and be provided with a good and sufficient covering; and that no flour shall be left at any landing or other place in order to be transported or carried to the place of exportation, except the same be put in a store or shelter sufficient to keep it dry; and that no flour or bread shall be carried or conveyed by water from any mill or landing place to the place of exportation in any open boat, flat or shallop without a good and sufficient covering or tarpaulin to secure the same in case of rain.

[Section VI.] And be it enacted by the authority aforesaid, That if the owner or possessor of any cart, wain, wagon, boat, flat or shallop cause or suffer any flour or bread to be wet or take damage for want of due care or not being provided as aforesaid in the moving, carrying or transporting the same from any mill or landing place to the place of exportation, every such person or persons shall forfeit and pay for every cask of flour or bread damaged as aforesaid the sum of one shilling.

[Section VII.] And be it enacted by the authority aforesaid, That no merchant or person whatsoever shall lade or ship any flour for exportation out of this province before he shall first submit the same to the view and examination of the officer or his deputy of the respective county from whence the same is intended to be shipped, who shall search and try the same by boring the head and piercing it through with an instrument to be contrived for that purpose, in order to prove

whether it be honestly and well packed as also to enable him to judge of its goodness, and shall afterwards plug up the hole; and if the said officer shall judge the same to be merchantable according to the direction of this present act, he shall brand every such cask of flour on the quarter with the provincial brand-mark, which the said respective officers shall, each one for himself, provide and have for that end and purpose, sufficient and capable to impress in a fair and distinguishable manner the arms of the province of Pennsylvania, with the letter P on one side thereof; and to distinguish the counties, Philadelphia county brand-mark shall have the letter P, Bucks county the letter B, and Chester county the letter C on the other side thereof, for which trouble of the said respective officer he shall have and receive of the shipper one penny for each cask and no more.

Provided always nevertheless, That if any dispute shall happen to arise between the said officers and possessor of such flour concerning the fineness or goodness thereof, upon application made to one of the magistrates of the city or county where the dispute arises he shall issue his warrant to two indifferent judicious persons of skill and integrity to view and search the said flour and make report forthwith according as they find the same, and the said magistrate is hereby empowered and required to give judgment accordingly; and in case the said flour is judged not fit to be exported, the said magistrate shall order it not to be exported, under the penalty of forfeiture of all such flour, and shall also award and order the owner or possessor of the said flour to pay the said officer one shilling for each cask for all such flour as shall be adjudged not fit for exportation as aforesaid with reasonable charges, who shall recover the said costs and charges from the bolter or maker thereof; but in case the said flour upon trial shall be found to be good and merchantable according to the directions of this act, the charges of prosecution shall be paid by the officer; and in case any flour shall upon trial be found not merchantable or fit to be exported, the officer shall take the bolter's brand and the marks and numbers of such casks of flour, and shall also note upon the invoice of the said flour the numbers

of so many of them as shall be found not merchantable; and if the same flour be afterwards shipped in order for exportation, the proof that it is not the said flour shall lie wholly on the owner or shipper thereof, and shall not be incumbent on the said officer.

[Section VIII.] And be it enacted by the authority aforesaid, That the said officer or his deputies shall have full power and authority by virtue of this act and without any further or other warrant to enter on board any ship, sloop or vessel whatsoever lying or being in any port or place of this province, and into any house, store or place whatsoever within the province aforesaid, to search for and make discovery of any flour shipped or intended to be shipped for exportation; and if the owner or possessor thereof or their servants or others shall deny him or them entrance, or if the said officer or his deputies shall be anyways molested in making such discovery as aforesaid, or if such merchant or owner shall refuse to permit the said officer or his deputies to view and examine any flour or not permit him or them to brand the same if merchantable according to the direction of this act, every such person so offending shall forfeit and pay the sum of ten pounds, or shall ship off any cask or casks of flour not branded with the provincial brand-mark aforesaid, every such person so offending shall forfeit and pay the sum of five shillings for every cask of flour so shipped.

[Section IX.] And be it enacted by the authority aforesaid, That Samuel Carpenter, of Philadelphia, merchant, shall be and is hereby appointed the officer for viewing and examining all flour shipped or intended to be shipped directly out of this province from the city and county of Philadelphia; and that William Atkinson, of Bucks county, yeoman, shall be and is hereby appointed the officer for viewing and examining all flour shipped or intended to be shipped directly out of this province from the county of Bucks; and John Owen, of Chester, gentleman, shall be and is hereby appointed the officer for viewing and examining all flour shipped or intended to be shipped directly out of this province from the county of Chester. And if any or either of the officers hereby appointed or hereafter to be ap-

pointed shall by any accident be rendered incapable or neglect to execute the said office, or shall misbehave him or themselves therein or shall happen to die, then and so often and from time to time it shall and may be lawful to and for a majority of the justices of the peace of the respective counties to supply his or their place by some other fit and capable person, who shall thereupon be the officer for putting this act in execution for the respective county until the assembly appoints another. But before the said officers hereby or hereafter to be appointed shall do anything in the execution of their said office, they shall each of them take an oath or affirmation before any one justice of the peace of any county of this province faithfully and impartially to perform his duty and trust to the best of his capacity according to the directions of this present act.

[Section X.] And be it enacted by the authority aforesaid, That the said respective officers hereby appointed or hereafter to be appointed are hereby empowered to appoint deputies in the respective counties for whom he or they shall be accountable, which said deputies, having taken the same oath or affirmation required to be taken by the principals, are hereby fully empowered to act as deputy officers in their respective counties for the searching and branding flour and for all other things required to be done by this act to all intents and purposes whatsoever.

But forasmuch as all the endeavors and skill that can be used in the making of flour good will prove ineffectual except due care be taken in the management of the grain before it be ground; therefore,

[Section XI.] Be it enacted by the authority aforesaid, That every owner, possessor or occupier of any grist mill shall have and be provided with a screen, wherewith all the wheat to be ground into flour for exportation shall be first screened; and if any owner, possessor or occupier of any grist mill shall by himself, servants or others presume to grind or suffer to be ground into meal for bolting for exportation out of this province any wheat before the same be screened as aforesaid, or shall grind or suffer to be ground any unsound, ill-dressed, foul or unmerchantable wheat to be bolted for exportation as afore-

said, or shall bolt any meal so ground before the same be thoroughly cooled and dried, he, she or they so offending in the premises shall forfeit and pay for every such offense the sum of thirty-five shillings on due proof thereof made by one or more credible witnesses before any one justice of the peace of the county or place where the fact was committed.

[Section XII.] Be it enacted by the authority aforesaid, That every miller, bolter and baker within this province is hereby required within six months after the publication of this act, and afterwards once in every three years, to bring his or their weights and measures to the standard in each county to be examined and tried, and to have them made to agree with the standard and stamped and marked as directed by an act of assembly of this province of the twelfth of King William the Third, entitled "An act for regulating weights and measures,"¹ under the penalties and fines imposed by the same act.

[Section XIII.] And be it enacted by the authority aforesaid, That if any person or persons shall counterfeit the said provincial brand-marks or either of them, or impress or brand the same on any cask of flour, he, she or they, being thereof legally convicted, shall for the first offense forfeit and pay the sum of five pounds, and for the second offense the sum of ten pounds, and for the third and every other such offense the offender shall be committed to gaol and sentenced to the pillory, there to stand the space of two hours on a market day in any city, borough or town of the respective counties of this province where the fact was committed.

[Section XIV.] And be it enacted by the authority aforesaid, That all and singular the fines, forfeitures and charges mentioned in this act, where the same respectively exceed not forty shillings, the same shall be recovered in the same manner as other debts under forty shillings by the law of this province; and where the same exceed forty shillings, they may be sued for and shall be recovered in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed; all which said fines and forfeitures not hereinbefore

¹ Passed November 27, 1700, Chapter 73.

directed how to be applied shall be paid to the respective officer or his deputy aforesaid, who is hereby strictly enjoined and required to keep just and true accounts thereof, and shall once every year at the time of appointing overseers of the poor deliver unto the magistrates a true and exact list of all the fines and forfeitures arising from this act for the year past in the respective counties, the one-half whereof he or they shall immediately pay into the hands of the overseers of the poor for the use of the poor of the place where the forfeitures happened, and the other he or they may detain to his or their own use as prosecutor; and if any or either of the officers as aforesaid shall refuse or neglect to account for and pay as aforesaid, he or they shall forfeit their office, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That the officer herein appointed to examine and brand flour as aforesaid for the city and county of Philadelphia nor his deputies nor any other person or persons to be appointed in their or either of their places or stead shall during the continuance of this act, by him or themselves or by any other person to his or their use or by his or their procurement, vend, barter, sell, exchange or trade in flour under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person or persons who will sue for the same to effect in any court of record in this province, one-half thereof to the use of the person or persons so suing, the other half thereof to be paid to the treasurer of this province towards the support of government. And the person or persons duly convicted of any such offense or offenses against this act shall be and are hereby disabled from acting thereafter in their respective offices; and the justices of the city and county of Philadelphia are hereby authorized and required to appoint another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the officers in this act named until others are appointed by the assembly of this province.

[Section XV.] And be it enacted by the authority aforesaid, That the said act, entitled "An act to prevent the exportation

of bread and flour not merchantable,"¹ and every article, clause or thing therein contained shall be and is hereby repealed to all intents and purposes whatsoever.

Passed January 19, 1733-34. Never submitted to the consideration of the Crown. See the Acts of Assembly passed March 7, 1745-46, Chapter 368; August 18, 1750, Chapter 386; September 27, 1758, Chapter 435; October 19, 1759, Chapter 452; February 21, 1767, Chapter 548; July 23, 1774, Chapter 698; October 6, 1779, Chapter 855. Repealed by the Act of Assembly passed April 5, 1781, Chapter 936.

CHAPTER CCCXXXIII.

AN ACT FOR CONFIRMING THE REPEAL OF DIVERS LAWS OF THIS PROVINCE.

Whereas the late King Charles the Second, by his royal charter bearing date at Westminster, the fourth day of March, in the [thirty-] third year of his reign, was graciously pleased for the consideration therein mentioned to give and grant unto the late William Penn, Esquire, and to his heirs and assigns all that tract of land now known and called by the name of The Province of Pennsylvania; and by the same royal charter the said late King did, for himself, his heirs and successors, make, create and constitute him, the said William Penn, Esquire, true and absolute proprietary of the said country, saving always to the said late King, his heirs and successors, the faith and allegiance of the said William Penn, [Esquire,] his heirs and assigns, and of all other the proprietaries, tenants and inhabitants that then were or thereafter should be within the territories and precincts aforesaid, and likewise saving to the said late King, his heirs and successors, the sovereignty of the aforesaid country, to have, hold, possess and enjoy the said tract of land, together with all the islands therein contained, unto the said William Penn, Esquire, his heirs and assigns, to the only proper use and behoof of the said William Penn, his heirs and assigns forever. And whereas the said late King

¹ Passed March 20, 1724-25, Chapter 282.

Charles the Second, reposing special trust and confidence in the fidelity, wisdom, justice and provident circumspection of the said William Penn, did further by his said royal charter, for himself, his heirs and successors, grant free, full and absolute power to the said William Penn, Esquire, and to his heirs and to his or their deputies and lieutenants, for the good and happy government of the said country, to ordain, make and enact, and under his or their seal to publish, any laws whatsoever for the raising of money for the public use of the said province or for any other end appertaining either to the public state, peace or safety of the said province or to the private utility of particular persons, according to his or their best discretion, by and with the advice, assent and approbation of the freemen of the said country or the greater part of them or of their delegates or deputies.

But to the end that the said William Penn or his heirs or other the planters, owners or inhabitants of the said province might not at any time thereafter by misconstruction of the powers aforesaid, through inadvertency or design, depart from the faith and due allegiance (which by the laws of [the] realm of England they and all the said late King's subjects in his dominions and territories were always obliged to own to the said late King and his successors), by color of any extent or largeness of power in the said royal charter given or pretended to be given, or by force or color of any laws thereafter to be made in the said province by virtue of any such powers, the said late King was pleased to declare his further will and pleasure to be that a transcript or duplicate of all laws which should be so as aforesaid made and published within the said province should within five years after the making thereof be transmitted and delivered to the privy council for the time being of the said late King, his heirs and successors. And if any of the said laws within the space of six months after they should be so transmitted and delivered should be declared by the said late King, his heirs and successors, in his or their privy council, inconsistent with the sovereignty or lawful prerogative of the said late King, his heirs and successors, or contrary to the faith and allegiance due to the legal government of the realm of

England from the said William Penn, Esquire, and his heirs or from the planters and inhabitants of the said province, and that thereupon any of the said laws should be adjudged and declared to be void by the said late King, his heirs or successors, under his or their privy seal, that then and from thenceforth such laws concerning which such judgment and declaration should be made should be[come] void, otherwise the said laws so transmitted should remain and stand in full force according to the true intent and meaning thereof, as by the said royal charter, relation thereunto being had, does more fully appear:

And whereas in right of and by virtue of the powers granted to the said William Penn, Esquire, and his heirs in and by the said royal charter many laws and ordinances have from time to time since the settlement of the said province been made by the said William Penn, Esquire, and his heirs and his and their deputies and lieutenants, by and with the advice and assent of the delegates or representatives of the freemen of the said province in general assembly met, and published under the great seal of the said province:

And whereas divers of the said laws, after being made and published in manner aforesaid have, according to the directions of the said royal charter, been transmitted to the Privy Council of the said late King and his successors, where the same have been by them and their Privy Council adjudged to be void: But forasmuch as the said laws not having been declared void under the privy seal of the said late King or his successors according to the express terms of the said royal charter, some doubts have arisen whether the said laws were by such declaration actually made void and repealed:

To the end, therefore, that all scruples touching the repeal of the said laws may be effectually removed and that no doubts may hereafter be made concerning the same:

[Section I.] Be it enacted by Patrick Gordon, Esquire, Lieutenant-Governor by the King's royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said province in General Assembly met, and by the au-

thority of the same, That all and every of the laws, ordinances or acts of assembly of the province of Pennsylvania which at any time before the publication of this act have been transmitted to the Privy Council and have been adjudged to be void by the said late King or his successors in his or their Privy Council, though the same were not declared to be void under the privy seal (according to the terms of the said royal charter), shall nevertheless be deemed, taken and allowed to be void to all intents and purposes whatsoever from the time of such declaration, in the same manner as if the said laws had been adjudged and declared to be void by the said late King or his successors or any of them under his or their privy seal, the want of the said privy seal or any other formality in such declaration in anywise notwithstanding.

Passed January 19, 1733-34. See Appendix X, Section I.

CHAPTER CCCXXXIV.

AN ACT THE BETTER TO ENABLE WILLIAM FISHBOURN TO DISCHARGE THE DEBT DUE FROM HIM TO THE TRUSTEES OF THE GENERAL LOAN OFFICE OF THIS PROVINCE.

Whereas the trustees of the general loan office of this province, by virtue of an act of assembly of this province, and for securing a debt of one thousand seven hundred and seventy-nine pounds, eighteen shillings and three farthings due the said province, did take and receive a mortgage of the lands, tenements and hereditaments hereinafter set forth: (That is to say) one dwelling-house and lot of land situate, lying and being in the city of Philadelphia, twenty-five feet in breadth, and extending from Front street to Second street; also one other house and lot adjoining, ten feet in breadth and two hundred and thirty-two feet in length, both which being estimated of value sufficient to secure the payment of five hundred and fifty pounds, part of the money due as aforesaid with the interest thereof; also a tract of land containing four hundred.

and ninety-six acres situate in the county of Bucks, near Horsham, of value sufficient to secure two hundred pounds, other part of the money due as aforesaid with interest thereof; also three-fourth parts of the corn mills, saw mills and fulling mills with their appurtenances, with divers houses and lots of land and sixteen hundred acres of land adjoining, all situate, lying and being in Bristol in the county last aforesaid, of value sufficient to secure the payment of six hundred pounds, other part of the money aforesaid with interest; also a plantation containing two hundred acres of land situate at Horsham, in the county of Philadelphia, with a dwelling-house, kitchen, barn and the appurtenances, of value sufficient to secure two hundred pounds, other part of the mortgage-money aforesaid with the interest thereof; also an island of land and meadow containing about one hundred and fifty-one acres situate in Bristol aforesaid of value sufficient to secure the remainder of the mortgage-money aforesaid with the interest thereof.

And whereas the same William Fishbourn by his petition hath humbly set forth his earnest endeavors to have made sale of the said mortgaged premises to discharge his debt aforesaid with the interest thereof; but the said mortgaged premises being jointly secured for the said debt, it is conceived that by virtue of the act aforesaid no part of the said mortgaged premises can be sold so as that a title may be made to the purchaser without payment of the whole mortgage-money and interest due, and that no purchaser hath offered or is likely to offer able to pay down so much money as will be sufficient to that purpose, by reason whereof the said money and interest remains unpaid to his great injury, and praying a remedy may be provided him in the premises.

To the end, therefore, that the said William Fishbourn may be relieved in the premises and the mortgage-money and interest aforesaid the sooner paid:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the represen-

tatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for the trustees of the general loan office aforesaid, and they are hereby empowered and required, that when and at any time and times hereafter as the aforesaid William Fishbourn or his heirs, executors, administrators or assigns, or any purchaser or purchasers for him or them or either of them, shall well and truly pay or cause to be paid unto them the said trustees the distinct value of any of the premises mortgaged as aforesaid according to the estimation aforesaid, together with the arrears of the interest-money which shall be then due on the whole of the mortgage-money aforesaid, they the said trustees or their successors in the same trust may and shall at the usual days and times of payment and in the usual manner release, acquit and discharge such part of the premises so mortgaged (the estimated value whereof shall be so paid and discharged), and so *toties quoties*, in like manner until the whole of the mortgaged premises shall be acquitted by the payment of the whole of the mortgage-money and interest that now is or hereafter may become due, anything in the act hereinbefore mentioned contained to the contrary thereof notwithstanding.

Provided always, That nothing herein contained shall be deemed, construed or understood to give the said William Fishbourn any other or further day or days of payment for the mortgage-money or any part thereof than in the act hereinbefore mentioned is provided, nor to debar the said trustees from taking such remedies for the recovery thereof as in and by the same act is directed.

Passed January 19, 1733-34. Never submitted to the consideration of the Crown. See note to the Act of Assembly passed February 6, 1730-31, Chapter 326.

CHAPTER CCCXXXV.

AN ACT THE MORE EFFECTUALLY TO PREVENT THE ERECTING OF
WEIRS, DAMS, &c., WITHIN THE RIVER SCHUYLKILL.

Whereas by an act of general assembly of this province made in the year one thousand seven hundred and thirty for remedying the inconveniencies which the inhabitants of the counties of Philadelphia and Chester living near the upper parts of the river Schuylkill labored under in the carriage of their corn and other commodities down the said river, by reason of erecting weirs, fishing dams and other devices (for taking of fish) within the said river or creek, it was provided by the said act that all weirs, fishing dams and other devices or obstructions whatsoever built, laid or erected within the river Schuylkill, so as the trade of the said creek or river might be hindered or obstructed thereby, should be removed within the time in the said act limited; and that if any such obstruction should after the publication of the said act be built, erected or set up within the river or creek aforesaid whereby the trade or passage of the same might be impeded or hindered, all such obstructions should upon complaint made to two of the next justices of the peace, &c., be viewed, judged of and removed in the manner in the said act directed. But forasmuch as great difficulties have arisen among the people living near the said river Schuylkill and others about the meaning of these words, "Whereby the trade or passage of the said river may be impeded or hindered," and upon experience the said law being found to be in a great measure impracticable by reason of the remoteness of the magistrates from the places where such nuisances are commonly erected:

For remedy whereof:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Penn-

sylvania, by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That all and every person and persons who shall erect, build, set up, lay or maintain, or shall be aiding or assisting in erecting, building, setting up, laying or maintaining any weir, racks, fishing dam or other device or obstruction whatsoever within the river Schuylkill, shall upon complaint made to any justice of the peace in the county of Philadelphia, Chester or Lancaster be bound to his or her good behavior in the sum of twenty pounds, and to appear at the next court of general quarter-sessions of the peace of the county where complaint is made; and every such person and persons, being thereof legally convict upon indictment or information, shall for every offense forfeit and pay the sum of forty shillings, one moiety to the use of the workhouse of that county where such conviction shall be had, and the other moiety to the person or persons who will inform or prosecute for the same.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons whatsoever to pull down, break or remove all or any weir or weirs, fishing dams, racks or other device or obstructions whatsoever built, erected, set up or laid, or to be built, erected, set up or laid, within the said river Schuylkill; and that every person or persons who shall assault, hinder or obstruct any person in pulling down, breaking or removing the said weirs, racks, fishing dams, devices or other obstructions within the river Schuylkill aforesaid and being thereof legally convict shall forfeit for every offense any sum not under forty shillings nor exceeding ten pounds, one moiety thereof to the use of the workhouse of the county where such conviction is had, and the other moiety to the person or persons assaulted or obstructed in pulling down, breaking or removing any such obstructions as aforesaid.

And whereas part of the creek or river Schuylkill divides the counties of Philadelphia, Chester and Lancaster, some doubts have arisen in which of the said counties the offenses committed within the said river shall be tried:

For removing of which doubts:

[Section III.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the person or persons informing, prosecuting or complaining of any of the aforesaid offenses committed within the said river Schuylkill to lay the same to be committed within the said river in the county of Philadelphia, Chester or Lancaster, and the same shall be heard and tried in either of the same counties joining on that part of the river where the offense is committed at his election.

And for the more speedy removing such obstructions as are already made or hereafter shall be made, it shall and may be lawful for any justice of the peace within the counties of Philadelphia, Chester or Lancaster respectively, and they are hereby enjoined and required, to issue forth their warrant to the surveyors of the highways of the townships next adjacent to the obstruction so erected (or to such person or persons as such justice shall think fit) requiring them to summon the inhabitants of the respective townships or the nearest inhabitants to the dam or device so erected or laid by giving them six days' notice to repair to and remove the said obstruction; and any person or persons refusing or neglecting to appear and assist in removing such obstruction at the time appointed shall for every such offense forfeit the sum of five shillings to the use of the poor of the township where the offense is committed, to be levied as debts under forty shillings.

[Section IV.] And be it hereby further enacted, That an act of general assembly of this province, entitled "An act to prevent the erecting of weirs, dams, &c., within the river Schuylkill,"¹ shall be and is hereby repealed to all intents and purposes whatsoever.

Passed August 17, 1734. Never submitted to the consideration of the Crown. Repealed by the Act of Assembly passed March 14, 1761, Chapter 465.

¹See the former act here repealed, passed August 15, 1730, Chapter 318.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1734, and continued by adjournments until the twentieth day of September, 1735, the following acts were passed:

CHAPTER CCCXXXVI.

A SUPPLEMENT TO THE SEVERAL ACTS OF ASSEMBLY OF THIS PROVINCE FOR THE RELIEF OF THE POOR.

Whereas it is found by experience that the laws of this province made for the relief of the poor and for removing and punishing rogues, vagrants and other idle and disorderly persons wandering about the country have not proved effectual for the good purposes for which they were intended, and for securing the inhabitants of this province from being oppressed with great charges arising by such idle and disorderly persons coming from the neighboring colonies into and concealing themselves in the city of Philadelphia and the respective townships of this province until they have either gained a settlement or become so sick and infirm that they cannot be removed:

For remedying which inconveniencies:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, [and of the counties of Newcastle, Kent and Sussex on Delaware,] by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That no person or persons whatsoever coming into the city of Philadelphia or into any township or county within this province, mariners and other healthy persons coming directly from Europe only excepted, although such person be an hired servant and shall abide in such service for the space of one whole year, and although any person being an indented servant or be bound ap-

prentice by indenture in the said city or in any township within this province and shall continue in such apprenticeship or servitude for the space of one year (which is hereby declared sufficient to gain such apprentice and indented servant a settlement upon notice given as is hereafter directed in this act and not otherwise), or although any person or persons shall on his own account execute any public annual office or charge in the said city or any township within this province during one whole year, or be charged and pay his share towards the county taxes or levies for the poor of the said city or township, or shall have *bona fide* taken a lease of a tenement or plantation of the yearly value of five pounds or upwards within the city of Philadelphia or any township of this province, shall be deemed to have gained a legal settlement in the said city or in any such township unless such person or persons shall within five days next after his or her coming into the city of Philadelphia or into any township within this province give notice in writing, which they are hereby required to do, of the house of his or her abode and the number of his or her family, if any he or she have, to the respective overseers of the poor for the time being of the said city or township into which he or she shall come; nor shall any hired or indented servant or apprentice, by virtue of his or her being hired, bound or assigned over unto any person inhabiting the said city, townships or counties as aforesaid, gain a settlement within the same unless notice be given in writing within ten days after such hiring or binding as aforesaid to the overseers of the poor of the city or township where such person shall come to reside by the person who shall take such apprentice, hire a servant or purchase an indented servant (or by the person or persons so hired themselves within ten days next after such hiring), any law, custom or usage of this province to the contrary in anywise notwithstanding.

Provided always, That if upon complaint made by the overseers of the poor of the city of Philadelphia or of any township within this province to such magistrates as have a right to hear the same it shall be adjudged, within the space of twelve months next after such notice, that any person or persons is or are likely to become chargeable to the city or township

where he or she is come to reside, and shall upon his or her being required neglect or refuse to give security that he or she shall not become chargeable to the inhabitants of the said city or township into which he or she is come, that then such person or persons shall be liable to be removed to the last place of his or her legal settlement, the giving of notice as aforesaid or any other thing in this or any other act of assembly of this province to the contrary in anywise notwithstanding.

And for the more effectual preventing rogues, vagabonds and other idle and disorderly persons concealing themselves within the said city of Philadelphia or in any township or county within this province:

[Section II.] Be it further enacted by the authority aforesaid, That if any housekeeper or inhabitant of this province shall after the publication of this act take into, receive or entertain in his or her house or houses any person or persons whatsoever (healthy mariners and other persons coming immediately from Europe into the said province only excepted), not being persons who have gained a legal settlement in some city or township within this province, and shall not give notice in writing, which they are hereby required to do, within three days next after the taking into or entertaining any person or persons in his or her house within the city of Philadelphia to the overseers of the poor of the said city, and within the space of ten days next after his or her taking into or entertaining any person or persons in his or her house in any township within this province to the overseers of the poor of the township where such person dwells, such inhabitant or housekeeper, being thereof legally convict by the testimony of one credible witness on oath or affirmation before any two magistrates of the said city of Philadelphia, whereof the mayor or recorder to be one, or before any two magistrates of the county where such person dwells, shall forfeit and pay the sum of twenty shillings for every offense, the one moiety to the use of the poor of the said city or township respectively, and the other moiety to the informer, to be levied on the goods and chattels of the delinquents in the manner hereinafter directed, and for want of sufficient distress the offender to be committed

to the workhouse of the said city or county, there to remain without bail or mainprise for the space of ten days; and moreover, in case the person or persons so entertained or concealed shall become poor and unable to maintain him or herself, and cannot be removed to the place of his or her last legal settlement, or shall happen to die and not have wherewithal to defray the charge of his or her funeral, then in such case the housekeeper or person convicted of entertaining or concealing such poor person against the tenor of this act shall be obliged to provide for and maintain such poor and indigent person or persons, and in case of such poor person's death shall pay the overseers of the poor so much money as shall be expended on the burying such poor and indigent person or persons; and upon refusal so to do, it shall be lawful for the overseers of the poor of the said city or township respectively and they are hereby required to assess a sum of money on the person or persons so convicted from time to time by a weekly assessment for maintaining such poor and indigent person or persons or assess a sum for defraying the charges of such poor person's funeral, as the case may be; and in case the party convicted shall refuse to pay the sum of money so assessed or charged to the overseers of the poor for the uses aforesaid, the same shall be levied of the goods and chattels of the offender in the manner hereinafter directed; but if such person so convicted have no goods or chattels to satisfy the money so assessed for him or her to pay, that then it shall and may be lawful for the said justices to commit the offender to prison, there to remain without bail or mainprise until he or she have paid the same or until he or she shall be discharged by due order of law.

And whereas it is found by experience that many poor persons within this province cannot find employment in the city or township where they are legally settled, yet might find work for themselves and families in other places within the province, but not being able to give security, if required, upon their coming to settle in any other place that they and their families shall not become chargeable or burdensome to any city or township where they come to dwell, and by that means are confined to their own city or township, though their labor may be wanted elsewhere:

[Section III.] Be it therefore enacted by the authority aforesaid, That if any person or persons whatsoever from and after the first day of May, which will be in the year of our Lord one thousand seven hundred and thirty-five, shall come out of the city of Philadelphia or any township into another township within this province, or shall come out of any township in this province into the city of Philadelphia, there to inhabit and reside, [and] shall at the same time procure, bring and deliver unto the overseers of the poor of the city or township where he or she [or they] shall come to inhabit a certificate under the hands and seals of the overseers of the poor of the city or township from whence he, she or they removed, to be attested by two or more credible witnesses, thereby acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that city or township, every such certificate, having been allowed of and subscribed by two or more justices of the peace of the city or county where such township doth lie, shall oblige the said city or township to receive and provide for the person mentioned in the said certificate, together with his or her family, as inhabitants of that place whenever he, she or they shall happen to become chargeable to or be forced to ask relief of the city or township to which such certificate was given or into which he, she or they were received by virtue of the said certificate, and then and not before it shall and may be lawful for any such person and his or her children, though born in the city or township, and his or her servants and apprentices, not having otherwise acquired a legal settlement there, to be removed, conveyed and settled in the city or township from whence such certificate was brought.

And whereas it oftentimes happens that poor persons come from the city of Philadelphia into some township or place within this province and from some place or township of this province into the said city of Philadelphia or into some other township of this province, and conceal themselves until they become sick or lame and cannot be removed, and oftentimes die before they can be removed, by reason whereof the inhabitants of the city or township where such poor person or persons fell sick or died are put to charges without any means to relieve

themselves from the payment of the moneys expended upon the maintenance or burying such poor person or persons:

[Section IV.] Be it therefore further enacted by the authority aforesaid, That if any poor person or persons shall come out of the city of Philadelphia into any township within this province, or shall come out of any township or place within this province into the city of Philadelphia or any other township within this province, and shall happen to fall sick or die before he or she have gained a legal settlement in the city or township to which he or she shall come, so that such person or persons cannot be removed, and if upon notice given by the overseers of the poor of the place unto which such poor person is come, or by one of them, to the overseers of the poor of the city, township or place where such poor person or persons had last gained a legal settlement or to one of them, of the name, circumstances and condition of such poor person or persons, with request that they or one of them may take order for the relief and maintenance of such sick or lame person during his or her sickness, and for his or [her] being buried in case he or she should die, and if such overseer or overseers shall neglect or refuse so to do, that then and in such case it shall be lawful for any two justices of the peace of the city or county where such poor person had last gained a legal settlement, and they are hereby authorized and required, upon complaint made to them to cause all such sum and sums of money as shall be necessarily expended on the maintenance of such poor person in his or her sickness or on his or her burial, by warrant under their hands and seals to be directed to some constable of their county, to be levied by distress and sale of the goods and chattels of the said overseer or overseers of the poor so neglecting or refusing to take care and provide for any such poor person as aforesaid after such notice given to them or to one of them as aforesaid, and to be paid to the overseer or overseers of the city or township where such poor person happened to be sick or die as aforesaid, and the overplus of the moneys arising by sale of such goods remaining in the constable's hands after the sum of money ordered to be paid, together with the costs of distress, &c., are satisfied shall be restored to the owner or owners of the said goods.

And whereas by an act of assembly of this province, entitled "An act for the relief of the poor,"¹ it is provided that it shall and may be lawful to and for the overseer or overseers of the poor to make and lay a rate of one penny per pound clear value of the real and personal estates of all and every the freeholders and inhabitants within their respective townships, to be employed for the relief of the poor, &c., and four shillings per head on all freemen not otherwise rated; but it being found upon experience that the number of the poor within this province are very much increased, and the overseers of the poor of the city of Philadelphia and the respective townships within this province have been obliged to lay several rates of one penny per pound in one year for maintenance of the poor within the city of Philadelphia and the respective townships within this province, which has proved very troublesome as well to the persons on whom the said moneys are raised as to the persons who are obliged to collect the same:

For the remedying of which inconveniency for the future:

[Section V.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the overseers of the poor of the city of Philadelphia for the said city, having first obtained the approbation of the mayor or recorder with any two of the aldermen of the said city, and for the overseers of the poor of the several townships within this province, having first obtained the approbation of any two magistrates living next to the township where any poor tax shall be raised, to make or lay any rate not exceeding three pence in the pound at one time upon all the estates liable to be rated and in the manner directed to be raised and levied by the aforesaid act of assembly for the relief of the poor and not exceeding nine shillings per head on all freemen not otherwise rated, anything in the aforesaid act of assembly or any other law, custom or usage of this province to the contrary in anywise notwithstanding.

And for the more easy discovery, certain knowledge and well management of the affairs of the poor within this province and

¹ Passed January 12, 1705-6, Chapter 154.

of what moneys are raised for the use of the poor and to what uses applied:

[Section VI.] Be it further enacted by the authority aforesaid, That all and every overseer and overseers of the poor of any city or township within this province shall at their laying any rate for the relief of the poor of their respective cities or townships and they are hereby obliged to deliver to one of of the justices of the peace who allows such rate a fair duplicate of the same signed by such overseer or overseers, and shall likewise deliver to the respective overseer or overseers who shall succeed them fair and true lists of the poor of their respective city or townships, with such certificates and notices as shall be delivered or given to them upon the coming of any person from the city of Philadelphia into any township of this province or of the coming of any person from any such township into the city of Philadelphia or into any other township within this province, as by this act is provided and directed; for which trouble the justices are hereby required to make such allowance to the respective overseer or overseers of the poor within this province at their going out of their office as to them shall seem reasonable for their making such duplicates of the rates by them laid and for the charge and trouble they may be at in making fair lists of their poor and of the notices and certificates herein directed to be delivered to their successors, of which said notices and certificates a register or entry shall be made by the respective overseers of the poor to whose hands the same shall come in a book for that purpose to be by them provided and kept, which book shall likewise be delivered by the overseers aforesaid to their respective successors in the said office.

And whereas complaints have been made against overseers of the poor who have supplied the poor with necessaries out of their own stores and shops at exorbitant prices, and also against overseers who have paid unreasonable accounts to their friends or dependants for services done the poor.

And whereas the twenty-fifth day of March, appointed by the aforesaid act for the relief of the poor, is found by experience not to be a sufficient time for examining and settling the ac-

counts of the several overseers and for regulating and redressing the abuses that may be complained of:

[Section VII.] Be it therefore enacted by the authority aforesaid, That the magistrates of the respective counties or any three of them within this province for the said counties shall and may on the twenty-fifth day of March, and within three days next after the said day, and the mayor or recorder with any two aldermen of the city of Philadelphia for the said city, shall and may on the said twenty-fifth day of March, and at any time within one month after the said day annually, examine and settle the said overseers' accounts, and shall have full power to allow such accounts and sums only as to them shall seem just and reasonable.

And whereas the almshouse built for the city of Philadelphia may if well regulated be of service and help to ease the inhabitants of the taxes yearly assessed on them for the maintenance of the poor:

[Section VIII.] Be it enacted by the authority aforesaid, That the mayor and recorder with any two or more aldermen of the said city of Philadelphia shall from time to time have power and authority to choose and appoint a sober and discreet person to reside in the said almshouse for taking care of the poor therein, and where it may be needful to direct the receiving into the said almshouse such poor, and to employ such persons in the service of the said house and care of the poor, and generally to give such orders and instructions for the well-ordering of the said house and the poor of the said city as to the said mayor and recorder with any two or more aldermen of the said city shall seem just and reasonable, and to enjoin obedience to the same.

And whereas the overseers of the poor of the city of Philadelphia and the respective townships within this province at going out of their office not only frequently neglect or refuse to deliver to the justices a fair and true account of the moneys by them received for the use of the poor, but likewise leave considerable sums of money by them assessed for the maintenance of the poor uncollected, by which means it comes to pass that the moneys remaining uncollected are lost and the burden of

maintaining the poor falls heavy on such as have paid their money:

For remedying of which inconveniency for the future:

[Section IX.] Be it enacted by the authority aforesaid, That all and every the overseer and overseers of the poor of the city of Philadelphia and the respective townships within this province shall at their going out of their office render a fair and true account to the magistrates of the city of Philadelphia for the said city and to the justices of the respective counties in which they live of all the moneys assessed by them or that hath otherwise come to their hands and how the same hath been disposed of and also what part shall be remaining in their hands, and to pay the same to the succeeding overseer or overseers. And if any overseer or overseers of any poor within this province shall refuse or neglect to render such account to the justices as aforesaid and to pay what shall be remaining in their hands according to the direction of the respective magistrates, who shall have the right of examining their accounts, it shall and may be lawful to and for the said justices or any three of them to commit such overseer or overseers to the county gaol without bail or mainprise until such overseer or overseers shall render a true and fair account and pay such moneys as shall appear to be remaining in his or their hands to the succeeding overseer or overseers of the poor of the said city or township to which they respectively belong.

And if any overseer or overseers of the poor of the city of Philadelphia or of any township within this province hath or have neglected or refused or shall neglect or refuse to collect and pay to the succeeding overseers all such sums of money as is [sic] or shall be remaining in their hands or uncollected at their going out of his or their office, which they are hereby enabled to collect by warrant under the hands and seals of any two magistrates within the said city or counties within the space of thirty days after notice and request made to them so to do by any justice of the peace, and being duly convicted thereof before any three justices of the city or county to which they belong, it shall and may be lawful to and for the mayor or recorder and any two of the aldermen of the said city and for

any three justices of the peace of the county in which such delinquent overseer or overseers dwell, by warrant under their hands and seals to commit such delinquent overseer or overseers to the gaol of the county to which they belong, there to remain without bail or mainprise until the same shall be paid.

And to the end that the poor may not suffer for want of proper persons to take due care of them in their sickness or necessities:

[Section X.] Be it enacted by the authority aforesaid, That in case of the death or want of any overseer of the poor of the city of Philadelphia or of any township within this province it shall and may be lawful to and for the mayor, recorder and any two aldermen or the mayor or recorder with any two aldermen of the city of Philadelphia for the city of Philadelphia, and any two justices of the peace of the county in which such township lies, to appoint one or more overseers of the poor for the said city or township, as the case may require, at any time when there shall be occasion; which overseer or overseers when so appointed shall be subject to the same rules and penalties and obliged to the performance of the same duties and services as if he or they had been appointed at the time in the first-recited act of assembly mentioned, anything in the aforesaid act or any other law of this province to the contrary in anywise notwithstanding.

[Section XI.] And be it further enacted by the authority aforesaid, That the several fines, forfeitures and penalties, sum and sums of money, imposed or directed to be paid by this act and not herein otherwise directed to be recovered, the same and every of them shall be levied and recovered by distress and sale of the goods and chattels of the delinquent or offender by warrant under the hands and seals of the mayor and recorder or of the mayor or recorder and one or more aldermen of the city of Philadelphia for the said city, and under the hands and seals of any two or more justices of the peace of the county where the delinquent or offender dwells or is to be found; and after payment or satisfaction made of the respective forfeitures, fines, penalties and sums of money directed to be levied by such warrant as aforesaid, together with such legal charges

as shall become due in the recovery thereof, the overplus if any to be returned to the owner or owners of such goods or chattels, his or her executors or administrators.

Provided always, That if any person or persons shall find him or themselves aggrieved with any judgment of the justices given out of their sessions in pursuance of this act, such person or persons may appeal to the next general quarter-sessions of the peace for the county or city where such judgment or sentence was given, whose decision in all such cases shall be conclusive.

Passed March 29, 1735. See Appendix XII, Section I, and the Acts of Assembly passed August 19, 1749, Chapter 379; March 5, 1756, Chapter 408; January 18, 1757, Chapter 416; September 27, 1757, Chapter 426; February 8, 1766, Chapter 534; February 21, 1767, Chapter 552; February 20, 1768, Chapter 573; May 27, 1769, Chapter 596; November 27, 1779, Chapter 873; March 18, 1780, Chapter 900. The act in the text was repealed temporarily by the Act of Assembly passed March 9, 1771, Chapter 635, which latter act was made perpetual by the Act of Assembly passed April 6, 1776, Chapter 723, was declared to be in force by the Act of Assembly passed March 24, 1778, Chapter 792, was continued by the Act of Assembly passed April 2, 1779, Chapter 839, and was finally made perpetual by the Act of Assembly passed March 25, 1782, Chapter 962.

CHAPTER CCCXXXVII.

AN ACT FOR CONFIRMING THE ELECTION OF THE COMMISSIONERS AND ASSESSORS FOR THE COUNTY OF BUCKS, &c.

Whereas by an act of general assembly of this province passed in the eleventh year of the reign of King George the First, entitled "An act for raising of county rates and levies,"¹ it is directed and provided that when the commissioners and assessors are chosen in the manner directed by the said act the sheriff [sic] of the respective counties shall take their names in writing under the hands and seals of at least six or more of the freeholders and certify the same to the justices at their

¹ Passed March 20, 1724-5, Chapter 284.

general sessions of the peace in each county next after such election, which return is by the said act directed to be entered on record by the justices' clerk in their sessions minute-book. And whereas Joseph Chapman, of the county of Bucks, yeoman, was duly elected commissioner for the said county of Bucks on the first day of October in the year one thousand seven hundred and thirty-three, according to the directions of the aforesaid act of assembly, but the then sheriff of the said county neglected to return the name of the said Joseph Chapman as the commissioner elected for that year to the justices of the said county at their next general quarter-sessions of the peace. And whereas William Paxton and Matthew Hughes, both of the said county, being at the time of the said election of the said Joseph Chapman the acting commissioners for the said county, the said William Paxton soon after died, so that there remained but one commissioner qualified to act; and there being no directions in the before-mentioned act of assembly for supplying the place of the said William Paxton after his decease, nor any directions for the electing more than one commissioner at one time, the said county is like to remain under the want of a proper number of commissioners to put in execution the said act for raising county rates and levies unless some provision be made to supply the said defect:

[Section I.] Be it therefore enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said [Province] in General Assembly met, and by the authority of the same, That the said Joseph Chapman, upon his taking the qualifications directed to be taken by the commissioners in the said act of assembly, which any two justices of the peace of the said county are hereby empowered and required to administer, shall be and is hereby declared to be duly elected, and is hereby enabled to act as a commissioner as fully to all intents and purposes as if his name had been returned to the justices of the

peace in the manner in the said act directed, and that he shall continue so to act as a commissioner for the space of three years from the time of his election as aforesaid, the sheriff not making any return of his name to the justices aforesaid or the said Joseph not having taken his qualification enjoined to be taken by the said act or either of these or any other neglects to the contrary in anywise notwithstanding.

And whereas through some doubts which arose among the freeholders and others qualified to elect members of assembly for the county of Bucks aforesaid on the first day of October last concerning the number of commissioners to be elected at one time, William Biles and Simon Butler, of the said county, gentlemen, were nominated as commissioners in one piece of paper with the names of sundry freeholders of the said county as assessors for the said county for the ensuing year; and Joseph Kirkbride, Junior, of the same county, gentleman, was nominated likewise as commissioner in one other paper with the names of sundry persons, freeholders of the said county, as assessors likewise, and it being held by the justices of the said county at their general sessions of the peace next after the said election that the aforesaid act for raising county rates and levies did not warrant the electing more than one commissioner at one time, the said Joseph Kirkbride [Junior] was returned and qualified as commissioner according to the directions of the said act. And whereas the said William Biles declining to act as commissioner for this year and the said Simon Butler then having the greatest number of votes for another commissioner, and Benjamin Taylor, Richard Mitchell, Nathan Watson, John Dawson, Joseph Lupton and David Wilson, all of Bucks county, yeomen, though their names were not all wrote on one piece of paper with the commissioners duly elected, yet had the greatest number of votes for being assessors, and it being necessary that any doubts that have arisen or which may arise touching the legality of the election of the said commissioners and assessors should be removed:

[Section II.] Be it therefore enacted by the authority aforesaid, That the said Simon Butler on his taking the qualification in the said act directed and the said Joseph Kirkbride, Junior,

shall be and are hereby declared to be the two other commissioners for the said county of Bucks, the said Simon Butler for the space of one year and the said Joseph Kirkbride [Junior] for the space of three years next ensuing the first day of October last, the not returning their or any of their names to the justices at their general quarter-sessions of the peace or any mistake or defect in their election or the manner thereof to the contrary in anywise notwithstanding.

Provided always, That nothing herein contained shall be deemed or understood to prevent the said Simon Butler from being elected a commissioner for the said county of Bucks on the first day of October next or at any other time in the manner directed by the said act for raising county rates and levies if the persons qualified to elect shall see fit so to do. And that in case of death or misbehavior of any of the said commissioners it shall and may be lawful to and for the other commissioners and assessors for the time being to elect another person to serve instead of the person so dying or misbehaving himself in the same manner as by the aforesaid act of assembly is directed, and that Benjamin Taylor, Richard Mitchell, Nathan Watson, John Dawson, Joseph Lupton and David Wilson, of Bucks county, yeomen, be and are hereby declared to be the assessors legally elected for the said county of Bucks, to serve as assessors for the year ensuing from the first day of October last, any neglect or defect in their election to the contrary in anywise notwithstanding.

Passed March 29, 1735. See Appendix XII, Section I, and note to the Act of Assembly passed March 20, 1724-25, Chapter 284.

CHAPTER CCCXXXVIII.

AN ACT TO PREVENT THE DAMAGES WHICH MAY HAPPEN BY FIRING OF WOODS.

Whereas by an act of the general assembly of this province passed in the twelfth year of the reign of King William the Third¹ it is enacted that whosoever shall presume to set on

¹ Passed November 27, 1700, Chapter 59.

fire any woods, lands or marshes in this province or territories before the first day of the first month yearly or after the first day of the third month shall make good all damages that shall thereby happen to any the inhabitants thereof. And whereas it hath on experience been found that the setting the woods on fire at any time hath proved rather hurtful than beneficial to this province and great losses have happened by occasion of such fires:

For prevention thereof:

[Section I.] Be it enacted by Patrick Gordon, Esquire, Lieutenant-Governor with the King's royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the act of assembly hereinbefore recited and every clause and article therein be and is hereby repealed to all intents, constructions and purposes whatsoever.

[Section II.] And be it further enacted by the authority aforesaid, That whosoever shall presume at any time or times hereafter to set on fire or cause to be set on fire any woods, land or marshes whatsoever within this province, so as thereby to occasion any loss, damage or injury to any other person or persons, every such person or persons so offending shall be and are hereby declared liable to make satisfaction for the same in any action or actions on the case to be brought by the party or parties grieved in the court of common pleas in the county where the offense was committed.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That where the party injured shall not demand above forty shillings for his loss or damage, it shall and may be lawful to and for such person or persons to apply to any justice of the peace of the county where the offense is committed, who is hereby empowered and required by warrant under his hand and seal to cause the party offending to be brought before him or some other justice of the peace of the

same county, and if upon examination it shall appear to such justice by the testimony of one or more credible witnesses that the defendant is guilty of the charge exhibited against him, then the said justice shall issue forth his warrant to two or more substantial freeholders of the neighborhood, thereby commanding them in the presence of the defendant (if he will be present) to view the place or thing damnified or inquire into the loss sustained by the plaintiff, and to certify to the said justice upon their oath or affirmation what damage in their judgment the plaintiff hath sustained by occasion of the premises; and that upon return of such certificate to the said justice he is hereby empowered to grant execution for the recovery of the said damages, together with such costs of prosecution as is usual in the recovery of debts under forty shillings.

Provided also, That no costs of suits shall be paid to any plaintiff in any suit to be brought for any matter or thing in this act mentioned if the jury who shall try the cause do not assess above forty shillings damages, any law, custom or usage to the contrary in anywise notwithstanding.

Provided also, That where any offense shall be committed against the tenor of this act by any servant, negro or slave without the direction of his, her or their master or mistress respectively, and such offender be thereof duly convicted by the oath or affirmation of one credible witness before any justice of the peace of the respective counties, such offender or offenders, unless his or her master or mistress will pay the damages sustained with costs of suit, shall be whipped with any number of stripes not exceeding twenty-one on his or her bare back at the discretion of the justice before whom the party shall be convicted and further shall be committed to the workhouse of the county where the offense is committed, there to remain until the costs of prosecution shall be paid.

Passed March 29, 1735. See Appendix XII, Section I. Repealed by the Act of Assembly passed April 18, 1794, Chapter 1743.

CHAPTER CCCXXXIX.

AN ACT FOR THE BETTER ENABLING DIVERS INHABITANTS OF THE PROVINCE OF PENNSYLVANIA TO HOLD LANDS AND TO INVEST THEM WITH THE PRIVILEGES OF NATURAL-BORN SUBJECTS OF THE SAID PROVINCE.¹

Whereas by the encouragement given by the Honorable William Penn, Esquire, late Proprietary and Governor of the Province of Pennsylvania, and by the permission of our present Sovereign, King George the Second, and his predecessors, Kings and Queens of England, &c., divers Protestants who were subjects of the Emperor of Germany and other foreign princes in amity with the Crown of Great Britain transported themselves and estates into the province of Pennsylvania, and since they came hither have contributed to the enlargement of the British Empire and to the raising and improving sundry commodities fit for the markets of Europe, and have behaved themselves peaceably and paid a due regard and obedience to the laws and government of this province:

And whereas many of the said persons, to wit: John Diemer, David Scholtze, Peter Hillegas, Wilhelm Ziegler, Paulus Kripner, Jacob Seijl, George Scholtze, Ulrich Aller, Caspar Ulrich, Henry Van Aken, John Iden, Adam Klamter, Anthony Benezet, of the city of Philadelphia; Anthony Bohm, Conrad Bensell, Adam Romich, Fredrick Reymer, Joseph Graff, Henry Slingloff, Michael Berger, George Souber, Alexander Dihl, Jacob Bowman, Gottlieb Herger, Daniel Schoner, Adam Galar, Nicholas Leisher, Junior, Peter Souber, Conrad Reble, Hans George Weigert, Christopher Mink, Johannes Zirwer, Sebastian Reiff Schneider, Jacob Kemp, Jacob Hill, John Souber, Abraham Zimmerman, Christian Weber, Nicholas Keyser, Martin Pitting, Conrad Keer, Conrad Kustor, Jacob Dubre, Anthony Zadoski, Hans Pingeman, Andreas Kraver, Lodwick Pitting, of the county of Philadelphia; John George Kinkner, William

¹ See note to Chapter 309.

Morey, Peter Schneider, John Joder, Christian Klimmer, John Joder, Junior, Joseph Eberhart, Michael Eberhart, John Brecht, Henry Schneider, George Zeiwitz, Michael We[i]ber, Ulrich Rubel, Jacob Kangweer, Diter Gauff, Henry Rinker, of the county of Bucks; George Donatt, Garratt Brownback, of the county of Chester; John George Beard, John Casper Stover, Michael Weidler, Fredrick Elberschidt, Peter Entzminger, Jacob Kersberger, Jacob Byerly, Jacob Leman and Michael Byerly, of the county of Lancaster, in the said province, in demonstration of their affection and zeal for the person and government of our present Sovereign, King George the Second, have qualified themselves by taking and subscribing the several oaths and declarations or solemn affirmations directed to be taken and subscribed by several acts of Parliament made for the security of the King's person and government and for preventing the dangers which may happen by Popish recusants, &c., and thereupon have humbly applied to the governor and the representatives of the freemen of this province in general assembly met setting forth their great desire of being made partakers of those privileges which the natural-born subjects of Great Britain do enjoy within this province; and it being just and reasonable that those persons who have given such testimony of their affection and obedience to the Crown of Great Britain should as well be secured in the enjoyment of their estates as encouraged in their laudable affection to and zeal for the English Constitution:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania [and of the counties of Newcastle, Kent and Sussex on Delaware], by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That John Diemer, David Scholtze, Peter Hillegas, [Wilhelm] Ziegler, Paulus Kripner, Jacob Seijl, George Scholtze, Ulrich Aller, Caspar Ulrich, Henry Van Aken, [John] Iden, [Adam] Klamter,

Anthony Benezet, of the city of Philadelphia; Anthony Bohm, Conrad Bensell, [Adam Romich, Fredrick Reymer], Joseph Graff, Henry Slingloff, Michael Berger, George Souber, Alexander Dihl, Jacob Bowman, Gottlieb Herger, Daniel Schoner, Adam Galar, Nicholas Leisher, Junior, Peter Souber, Conrad Reble, Hans George Weigert, Christopher Mink, Johannes Zirwer, Sebastian Reiff Schneider, Jacob Kemp, Jacob Hill, John Souber, Abraham Zimmerman, Christian Weber, Nicholas Keyser, Martin Pitting, Conrad Keer, Conrad Kustor, Jacob Dubre, Anthony Zadouski, Hans Pingeman, Andreas Kraver, Lodwick Pitting, of the county of Philadelphia; John George Kinkner, William Morey, Peter Schneider, John Joder, Christian Klimmer, John Joder, Junior, Joseph Eberhart, Michael Eberhart, John Brecht, Henry Schneider, George Zeiwitz, Michael We[i]ber, Ulrich Rubel, Jacob Kangweer, Diter Gauff, Henry Rinker, of the county of Bucks; George Donatt, Garratt Brownback, of the county of Chester; John George Beard, John Casper Stover, Michael Weidler, Fredrick Elberschidt, Peter Entzinger, Jacob Kersberger, Jacob Byerly, Jacob Leman and Michael Byerly, of the county of Lancaster, in the said province, be and shall be to all intents and purposes deemed, taken and esteemed the King's natural-born subjects of this province of Pennsylvania as if they and each of them had been born within the said province, and shall and may and every of them shall and may within this province take, receive, enjoy and be entitled to all rights, privileges and advantages of natural-born subjects as fully to all intents, constructions and purposes whatsoever as any of the King's natural-born subjects of this province can, do or ought to enjoy.

Passed March 29, 1735. See Appendix XII, Section I, and the Acts of Assembly passed February 3, 1742-43, Chapter 359; June 20, 1759, Chapter 445; (the Constitution of 1776, Plan of Government, Section XLII;) June 13, 1777, Chapter 756; August 31, 1778, Chapter 803; March 4, 1786, Chapter 1206; February 11, 1789, Chapter 1387.

CHAPTER CCCXL.

AN ACT FOR THE MORE EFFECTUAL VESTING AND SETTLING CERTAIN LANDS IN GEORGE MCCALL, PURSUANT TO THE COVENANTS AND AGREEMENTS OF ALL THE PARTIES HAVING ANY INTEREST IN THE SAME.

Whereas it hath been made appear to this assembly that the late Honorable William Penn, Esquire, proprietor of the province of Pennsylvania, did by his letters patent bearing date the twenty-fifth day of October, in the year of our Lord one thousand seven hundred and one, grant unto Samuel Carpenter, Isaac Norris and Edward Penington twelve thousand acres of land with the appurtenances lying in the county of Philadelphia to hold to them the said Samuel Carpenter, Isaac Norris and Edward Penington and the survivors and survivor of them and to the heirs and assigns of the survivor of them for ever in trust and to the use and behoof of his son John Penn, and the heirs of his body lawfully to be begotten, and for want of such issue to the heirs of the donor on the body of his wife Hannah, begotten or to be begotten; and for default of such issue, then as to five full twelfth parts of the said lands and premises with the appurtenances to the use of his said wife Hannah and her heirs for ever; and as to seven full twelfth parts residue of the said lands and premises with the appurtenances to the use of the right heirs and assigns of him the said donor for ever; and with the further trusts that the said Samuel Carpenter, Isaac Norris and Edward Penington, the survivors and survivor of them and the heirs and assigns of such survivor, should from time to time during the nonage of the said John Penn or any other person or persons having a remainder expectant by virtue of the said letters patent, grant, bargain, sell, enfeof, alienate and confirm the aforesaid twelve thousand acres of land and premises with the appurtenances or any part thereof to the best advantage in fee simple or otherwise, to such person or persons, his or their heirs, executors, administrators or assigns respectively, as should pur-

chase or farm the same; and that the said trustees and the survivors and survivor of them and the heirs and assigns of such survivor should from time to time employ and apply the money and profits arising by sale or demise of the said lands and premises or any part thereof to the only use and behoof of the said John Penn, his heirs and assigns, or to the use and behoof of such other person or persons having remainder or remainders expectant as aforesaid, provided nevertheless, that the profits or effects of the said lands arising as aforesaid nor any part thereof should be applied or disposed of otherwise than by consent of the guardian or guardians of the said John [Penn] or other person or persons in expectancy as aforesaid in writing under his, her or their hands and seals first had for that purpose.

And whereas it is likewise made appear that five thousand acres, part of the said twelve thousand acres of land, is the proper estate of the said John Penn, Esquire, by the grant or devise of Thomas Callowhill, grandfather of the said John Penn, and not liable to be settled in the manner contained in the said letters patent. And whereas it further appears that the other children of the said William Penn, Esquire, by his wife Hannah, Thomas Penn and Richard Penn, Esquires, and Margaret Penn, now the wife of [Thomas Freame, together with her said husband, and] William Penn, Esquire, grandson and heir-at-law to the said William Penn, Esquire, the grantor, being desirous that the said whole twelve thousand acres of land should be vested in the said John Penn and his heirs absolutely, that he and they may dispose of the same at his and their pleasure, did by their indentures of [lease] and release, dated the first and second days of July, one thousand seven hundred and thirty-four [grant], bargain, sell, remise, release and confirm all the said twelve thousand acres of land with the appurtenances and the reversions and remainders thereof or any part thereof to the said John Penn, [his] heirs and assigns, forever. And by the said [indentures] did further direct and appoint the said Isaac [Norris, the surviving] trustee, and his heirs (the aforesaid) Samuel Carpenter and Edward Penington being then dead) to convey the said twelve thou-

sand acres of land and premises with the appurtenances to and to the use of the said John Penn, his heirs and assigns, forever. And by the said indentures did likewise consent that any act of Parliament in Great Britain and any act of assembly in Pennsylvania shall and may be passed and made for the absolute vesting all and every the said twelve thousand acres of land with the appurtenances in the said John Penn, his heirs and assigns, or in such other person or persons as he or they shall appoint, to and for his and their own proper use, benefit and behoof. And whereas the said Isaac Norris is since deceased, and Isaac Norris, his son and heir-at-law, in conformity to the direction and appointment of the said William Penn, Thomas Penn, Richard Penn, Thomas Freame and Margaret his wife, and in discharge of the trust reposed in him as heir to the surviving trustee, granted and re[leased] all the aforesaid twelve thousand acres of land with the appurtenances unto the said John Penn and his heirs, to hold to him the said John Penn and his heirs and assigns forever.

And whereas the said John Penn by his indentures of lease and release bearing date the nineteenth and twentieth days of June, one thousand seven hundred and thirty-five, for the consideration of two thousand guineas to him paid and satisfied by George McCall, of the city of Philadelphia, merchant, did grant, bargain and sell all the aforesaid twelve thousand acres of land with the appurtenances, which upon a resurvey of the same lately made by the authority of the proprietors of Pennsylvania is found to contain fourteen thousand and sixty acres of land and is bounded as in the last-recited deed is set forth and described, to wit: Situate in the county of Philadelphia, beginning at a corner of the Germans tract of land, the said corner being on the bank of the river Schuylkill on the east side thereof; and extending thence by the said land north forty degrees east three thousand four hundred and twenty perches to a hickory tree near the west branch of Perkiomen Creek; thence by a line of marked trees and crossing the said branch north fifty degrees west six hundred and twenty perches to a marked white oak; thence by a line of marked trees south forty degrees west three thousand eight hundred and forty perches to the aforesaid river; thence down by the same on several

courses eight hundred and forty perches to the place of beginning.

And whereas the said George McCall hath humbly besought this assembly that an act may pass agreeable to the appointment and direction of all the parties before named for vesting in him and his heirs the aforesaid tract of land as the same is now resurveyed and sold to him for fourteen [thous]and and sixty acres of land with the appurtenances in the manner before set forth:

[Section I.] Be it therefore enacted by the Honorable Patrick Gordon, Esquire, Lieutenant-Governor of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, at the suit of the said George McCall, That all the said fourteen thousand and sixty acres of land with the appurtenances, situate, lying and being in the county of Philadelphia as aforesaid, as the same is before set forth and described in the re-survey made of the same, and every part and parcel thereof, with all houses, orchards, fencings, woods, rivers, creeks, mines, minerals (the fifth part of all royal mines of silver and gold reserved to the King [only excepted]), huntings, hawkings, fishings, fowlings, with all] and singular the privileges and appurtenances to the sa[me] or any p[art] thereof belonging or appertaining or accepted, reputed, taken, used, occupied or enjoyed as part or parcel of the same, shall immediately from and after the publication of this act be actually vested and settled in the said George McCall, his heirs and assigns [for ever]. And that the said George McCall shall be seized thereof and of every part thereof (except before excep[ted]) to him an[d his] heirs, and may hold and [enjoy] the same free from any estates, uses, entails, limitations, remainders, charges or provisions had and made by the [said le]tters patent, saving to the King, his heirs and successors, and to [all] persons, bodies politic and corporate, their [heirs and] successors, executors and administrators (other than such [as claim under the] said William Penn, Esquire, late proprietor as aforesaid, by virtue of the-

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said letters patent, or any grant, gift or thing therein contained) all such right, title and interest as they or any of them have or may have to the said lands or any part thereof, this act or anything therein contained to the contrary in anywise notwithstanding.

Passed June 24, 1735. See Appendix XI, Section I.

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1735, and continued by adjournments until the fourteenth day of August, 1736, the following acts were passed:

CHAPTER CCCXLI.

AN ACT FOR THE MORE EASY AND SPEEDY RECOVERY OF SMALL DEBTS.

Whereas it is found by experience that a great number of the lawsuits which are commenced in this province are brought against the poorer sort of people for small sums of money, who are unable to bear the expenses arising by the common method of prosecution:

Therefore, for remedying thereof:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all actions for debt or other demands for the value of forty shillings and upwards and not exceeding five pounds (except such actions as are hereinafter excepted) shall from and after the twenty-fifth day of the month called March, next after the publication of this act, be and they are hereby made cognizable before any justice of the peace of any of the counties in this province in the county in which the defendant shall be or reside; and the said justices are hereby respectively empowered and required, upon complaint to either of them made, for any such debt or demand to issue a warrant in the nature of a summons or a *capias*, as the case may require, directed to the constable of the township

or district where the defendant dwells or can be found, commanding him to bring or cause such defendant to come with the plaintiff before him at the time and in the manner following: (That is to say) in cases where such process shall be in the nature of a *capias*, forthwith after the service thereof; but where a summons shall be issued, then on some certain day therein to be expressed not less than five nor exceeding eight days from the date of such process; and at the time appointed for the hearing of any such cause the said justice himself, or at the request of the parties by auditors or referees to that purpose by him appointed and approved of by the said parties, shall proceed to hear and examine the proofs and allegations of the plaintiff and defendant; and upon the return of such auditors or otherwise to give his judgment thereupon as the true merits and right of the cause shall appear to him, with such costs only as by the laws of this province are allowed in debts under forty shillings.

Provided always, That the process against a freeholder shall be by summons only, and service shall be made thereof on the person or a copy thereof left at the house of the defendant in the presence of one or more of his family or neighbors at least four days before the time appointed for a hearing; and in case the defendant does not appear at the time appointed, then a second summons shall be issued in manner aforesaid directed to the constable aforesaid, commanding him not only to summons the defendant but also to inquire why he or she did not appear on the return day of the first summons. And if the defendant shall not appear at the time appointed in the second summons, then on oath or affirmation made by the constable that the said summons were duly served in manner aforesaid, and the best account he may be able to give (after inquiry made as aforesaid) rendered why such defendant did not appear on the days appointed, the justice who granted the same summonses may either then or on such further day as he shall deem consistent with reason and the nature of the case to appoint and not otherwise, to proceed to hear and determine such cause or causes in the defendant's absence and give judgment and award execution thereupon as if the defendant had been personally present.

[Section II.] And be it further enacted by the authority aforesaid, That after judgment given in any of the cases aforesaid the justice who pronounced the same shall grant execution thereupon, directed to the constable aforesaid, commanding him to levy the debt or damages and costs of the defendant's goods or chattels (who by virtue thereof shall within the space of ten days next following expose the same to sale by public vendue, returning the overplus if any be to the defendant) and for want of sufficient distress to take the body of such defendant into custody and him or her to carry and convey to the common gaol of the county, there to remain until the said debt or damage with costs shall be fully satisfied.

Provided always, That no such execution shall be issued against any freeholder in less than the space of three months next after the entry of such judgment unless the plaintiff or some body for him or her shall on oath or affirmation declare that he or she hath good reason to believe that the debt will by such delay be lost, for that at the end of the said term or before it (he or she believes) the defendant will not have sufficient assets in the county on the which the said debt may be levied. And if any judgment to be given as aforesaid shall be against a person not a freeholder, such person shall have the execution against him or her respited for [the] like term of three months on his or her entering into recognizance to the plaintiff with one sufficient security in the nature of special bail on condition to deliver the body of the defendant to the sheriff of the county at the expiration of the time so to be allowed, or that the condemnation money shall then be paid, and in default of giving such security shall be committed to the common gaol of the county, there to remain until the debt and costs shall be paid or such defendant otherwise legally discharged.

Provided also, That where the plaintiff in any cause shall become nonsuit or judgment shall pass against him, then the justice is hereby required to assess the defendant his reasonable costs, to be levied in manner aforesaid.

Provided also, That it shall and may be lawful for the justices of the respective courts of common pleas to give such relief to any insolvent debtor or debtors prosecuted in pursuance

of this act as they might have done by the laws now in force in case this act had not been made.

Provided also, That if any person or persons shall conceive him, her or themselves aggrieved by any such judgment so to be given (cases determined on the return of auditors or referees as aforesaid only excepted) it shall and may be lawful for such person or persons at any time within the space of six days next following the giving of such judgment but not after to appeal therefrom to the next court of common pleas to be holden for the county in which such suit shall be commenced, he, she or they first entering into recognizance to the plaintiff with at least one sufficient security in double the value of the debt or damage sued for, and sufficient to answer all costs, to prosecute the said appeal with effect and to abide the order of the said court, or in default thereof to be sent by *mittimus* to the sheriff of the county, by him to be kept until he, she or they shall give such security or be otherwise legally discharged.

[Section III.] And be it further enacted by the authority aforesaid, That the said justices shall cause fair entries to be made in books by them to be provided to that purpose of the names of the plaintiff and defendant in all such causes as may come before them, with the debt and costs adjudged and the time when the same judgment was given; and upon any appeal made from any such judgment the justice who pronounced the same shall send a transcript thereof to the prothonotary of the court of common pleas of the county in which such appeal is made on or before the first day of the term next following any such appeal, for which transcript the justice shall be allowed in the costs to be taxed eighteen pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That at the court to which any such appeal shall be made the person so appealing shall cause an entry of his suit to be made by the prothonotary of such court and shall either have his appearance entered or give bail to the action, as the nature of the case may require; or on neglect thereof and application of the appellee to the court for that end the appellant's default shall be recorded, the first judgment affirmed with reasonable costs and execution shall be issued out of the said court against the defendant's body, goods or chattels, as is usual in

other cases. And in case the defendant shall appear or give bail as aforesaid, the plaintiff or defendant in the appeal (as the case may require) shall file his or her declaration and the adverse party plead to issue in such time as shall be directed by the court, so always that the cause be tried by a jury of the country in the usual manner, either the court to which such appeal is made or the next term at farthest (unless the court on cause to them shown shall think fit to give the parties a longer day), and as the verdict shall be rendered in any of the said causes the court shall give judgment thereupon as the nature of the case may require with costs of suit.

Provided always, That if the parties appellant and appellee shall neglect or refuse to file his or her declaration or to plead to issue in such time as shall be directed by the court, a nonsuit or judgment by default may be entered for want thereof as usual.

Provided also, That the costs to be taxed in any such suit to the several officers and others concerned for the services by them respectively to be done shall be two-thirds parts only of the costs now usually taken in the said courts of common pleas.

Provided also, That none of the justices who by virtue of this act shall hear and determine any of the causes aforesaid out of court shall afterwards sit on the hearing and determining the same cause on an appeal made to any of the courts of common pleas aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That if any person or persons whosoever shall commence, sue or prosecute any suit or suits for any debts or demands made cognizable as aforesaid in other manner than is directed by this act, and shall obtain a verdict or judgment therein for debt or damages, which without costs of suit shall not amount to more than five pounds (not having caused an oath or affirmation to be made before the obtaining of the writ of summons or *capias* and filed the same in the prothonotary's office respectively that he, she or they so making oath or affirmation did truly believe the debt due or damage sustained exceeded the sum of five pounds), he, she or they so prosecuting shall not recover any costs in such suit, any law, usage or custom to the contrary in anywise notwithstanding.

Provided also, That this act nor anything herein contained shall be deemed, construed or understood to extend to actions of debt for rent, to actions of replevin or upon any real contract, nor to actions of trespass on the case for trover and conversion or slander, nor to actions of trespass for assault and battery or imprisonment, nor to such actions where the title of lands shall anyways come in question.

Provided also, That this act shall continue in force for the space of three years, and from thence to the end of the next sessions of assembly and no longer.

Passed February 21, 1735-36. See Appendix XII, Section I, and note to the Act of Assembly passed May 28, 1715, Chapter 211, and the Act of Assembly passed May 19, 1739, Chapter 352.

CHAPTER CCCXLII.

A SUPPLEMENT TO THE LAW FOR LAYING OUT OF HIGHWAYS AND PUBLIC ROADS.

Whereas by a law of this province enabling the justices in each county to lay out and conform all roads except the King's highways and public roads it is provided that all roads within this province laid out by the directions of the said act shall be public highways, and shall be cleared and maintained at the charge or by the inhabitants of the township in which the said road lies, and that if any part of such road, although the same be laid out for the conveniency of one or but few persons, shall happen to be laid out through the improved ground of any person, the said improved ground is to be valued as by the said act is directed and paid for out of the county stock, which parts of the said law have, since the great increase of our inhabitants, been found to be very inconvenient and burdensome as well to the public as to private persons:

For remedying of which inconveniency:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Es-

quires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That upon the application of any person or persons to the justices of the general quarter-sessions of the peace for a road to be laid out from or to the plantation or dwelling-place of any person or persons to or from the highway, the said justices shall and they are hereby empowered to order and direct a view of the place where the road is requested to be laid, and return thereof to be made in the same manner as by the before-mentioned act of assembly is directed and appointed: and if a road shall be found necessary, the said justices shall further order and appoint of what breadth the said road shall be, so as the same exceed not thirty-three feet.

[Section II.] And be it further enacted by the authority aforesaid, That any road or cartway laid out in pursuance of this act not exceeding thirty-three feet in breadth, being first paid for by the person or persons hereinafter directed to pay, for the same, shall then be recorded, and from thenceforward shall be allowed to be a common road or cartway, as well for the use and conveniency of the person or persons at whose request the same was laid out, as for the use and conveniency of all such as shall have occasion to travel to and from the plantations or dwellings of such persons upon whose application the same road was laid out, and shall be cleared and maintained by the persons using the same to and from their respective dwellings; and if any such person or persons, being summoned by the overseers of the highways to assist in clearing or maintaining any such cartway or road, shall refuse or neglect to attend and give his assistance in doing the same, he shall be subject to the like penalties, to be recovered in the like manner as in and by an act of assembly of this province, entitled "An act for erecting of bridges and maintaining highways,"¹ is provided and directed in case of the non-attendance of any person summoned to work in repairing of highways.

¹ Passed November 27, 1700, Chapter 57.

And if it shall happen that the said road shall be laid out through any man's improved ground, then the same shall be valued as in the aforesaid act of assembly is directed, and the value thereof shall be paid to the owner or owners of the land by the person or persons at whose request and for whose use the same was laid out, and by those who shall use the same as a common road to and from their own dwellings.

And if the owner or owners of such lands through which any such cartway shall be laid out, or if the owner or owners of lands through which any cartway or road has been already laid out in pursuance of the before-mentioned act of assembly, the same road being only for the use of a few families, shall be desirous to hang swinging gates upon such roads, it shall and may be lawful for the justices aforesaid to appoint persons in the manner directed for laying out roads in the aforesaid act of assembly to inquire whether such gate or gates may without much inconveniency to the persons using the said road be hung upon the same. And if the persons appointed to view the place shall certify to the justices aforesaid that a gate or gates may be hung according to the prayer of the party without much inconveniency to the person or persons using the same, the justices shall in such case order and appoint that such gate or gates may be hung accordingly, and that the same shall be made and kept in good repair by the owner of the said land and made easy for the passage of the persons using the said road, the aforesaid act of assembly or any other law of this province to the contrary in anywise notwithstanding.

Passed February 20, 1735-36. See Appendix XII, Section I, and note to the Act of Assembly passed November 27, 1700, Chapter 55, and the Acts of Assembly passed February 17, 1762, Chapter 479; May 18, 1765, Chapter 526; September 29, 1770, Chapter 614; March 21, 1772, Chapter 653; September 30, 1779, Chapter 850; April 13, 1782, Chapter 976; February 8, 1785, Chapter 1126; September 29, 1787, Chapter 1320; December 4, 1789, Chapter 1471; April 5, 1797, Chapter 1953; March 1, 1800, Chapter 2114; April 6, 1802, P. L. 178; April 3, 1804, P. L. 507; April 3, 1809, P. L. 143; March 30, 1811, P. L. 189; February 22, 1812, P. L. 44; February 6, 1815, P. L. 27; March 1, 1815, P. L. 56; March 24, 1818, P. L. 276; March 30, 1829, P. L. 114; June 13, 1836, P. L. 551; April 16, 1838, P. L. 637; February 24, 1845, P. L. 52; April 15, 1845, P. L. 449; April 21, 1846, P. L. 416; March 16, 1847, P. L. 476; April 8, 1848, P. L. 414; February 27, 1849, P. L. 90; April 26, 1850, P. L. 592; May 8, 1850, P. L. 713; April 12, 1851,

P. L. 518; April 13, 1854, P. L. 360; May 8, 1854, P. L. 645; May 3, 1855, P. L. 422; April 22, 1857, P. L. 296; April 21, 1858, P. L. 385; March 31, 1860, P. L. 382; March 24, 1868, P. L. 464; April 13, 1868, P. L. 92; April 27, 1869, P. L. 1235; May 3, 1869, P. L. 1247; February 23, 1870, P. L. 228; May 14, 1874, P. L. 164; May 2, 1876, P. L. 95; May 25, 1878, P. L. 150; June 10, 1881, P. L. 105; May 19, 1887, P. L. 139; May 23, 1887, P. L. 180; May 8, 1889, P. L. 129; (the two acts of) May 9, 1889, P. L. 173, 178; May 16, 1891, P. L. 90; May 23, 1891, P. L. 109; May 26, 1891, P. L. 116; June 12, 1893, P. L. 451.

CHAPTER CCCXLIII.

AN ACT FOR VESTING THE STATE HOUSE AND OTHER PUBLIC BUILDINGS, WITH THE LOTS OF LAND WHEREON THE SAME ARE ERECTED, IN TRUSTEES FOR THE USE OF THIS PROVINCE.

Whereas by the directions of the representatives of the free-men of the province aforesaid Andrew Hamilton and William Allen, Esquires, made purchases of divers lots of land situate and being on the south side of Chestnut street, in the city of Philadelphia, lying contiguous to each other and bounded as followeth, viz.: Beginning at a corner on the east side of the Sixth street from Delaware and on the south side of Chestnut street, and extending thence by the said Chestnut street south seventy-five degrees east three hundred and ninety-six feet to a corner on the west side of the Fifth street from Delaware, thence by the same south fifteen degrees west three hundred and thirty-seven feet, thence by other ground north seventy-five degrees west one hundred forty-eight feet and a half to a line of a lot of ground reputed to be vacant, thence by the same these three several courses and distances next following, viz.: North fifteen degrees east eighty-two feet, thence north seventy-five degrees west ninety-nine feet, thence south fifteen degrees west eighty-two feet, thence by other ground north seventy-five degrees west one hundred forty-eight feet and a half to the east side of the Sixth street aforesaid, thence by the same north fifteen degrees east three hundred and thirty-seven feet to the place of beginning.

And whereas since those purchases [were] made a state
19*—III

house and other buildings have been erected on the ground aforesaid at the charge of the province, but the estate and inheritance therein yet remain in the same Andrew Hamilton and William Allen; now to the intent that the said state house, buildings and ground aforesaid may be effectually secured to the use of this province, it is thought necessary the estate in the premises should be vested in trustees for the uses, intents and purposes hereinafter specified:

To which end:

[Section I.] Be it enacted by Patrick Gordon, Esquire, Lieutenant-Governor with the King's royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That the aforesaid Andrew Hamilton and William Allen as soon as conveniently may be after the publication of this act shall and they are hereby required by some good and sufficient deed or deeds, assurance or assurances in the law, to grant, bargain, sell, enfeoff and convey unto John Kinsey, of the city of Philadelphia; Joseph Kirkbride, Junior, of the county of Bucks; Caleb Cowpland, of the county of Chester, and Thomas Edwards, of the county of Lancaster, Esquires, the lands, tenements and hereditaments aforesaid and all and singular the appurtenances thereunto belonging or in any wise appertaining, to have and to hold to them the said John Kinsey, Joseph Kirkbride, Junior, Caleb Cowpland and Thomas Edwards and the survivors and survivor of them [and to the heirs of the survivor of them] forever, yet nevertheless to the uses, intents and purposes hereinafter specified and to no other use, intent or purpose whatsoever: (That is to say) to and for the use of the representatives of the freemen aforesaid which now are and from time to time hereafter shall be duly elected by the freemen aforesaid; and to and for such other uses, intents and purposes as they the said representatives at any time or times hereafter in general assembly met shall direct and appoint.

Provided always, and it is hereby declared to be the true intent and meaning of these presents, That no part of the said ground lying to the southward of the State House as it is now built be converted into or made use of for erecting any sort of buildings thereupon, but that the said ground shall be enclosed and remain a public open green and walks forever.

And on this further trust and confidence and to this further intent and purpose that they the said John Kinsey, Joseph Kirkbride, Junior, Caleb Cowpland, Thomas Edwards and the survivors and survivor of them and the heirs of such survivor shall from time to time and at all times hereafter permit and suffer such suit or suits, action or actions to be commenced and prosecuted in his or their name or names, and to make such conveyance or conveyances of the lands, tenements and hereditaments or any part or parcel thereof to the uses aforesaid as the representatives aforesaid in general assembly met shall at any time or times hereafter direct and appoint, so always that they the said John Kinsey, Joseph Kirkbride, Junior, Caleb Cowpland and Thomas Edwards and their heirs, executors and administrators and every of them be well and truly indemnified, saved and kept harmless of and from any costs, charges, troubles or molestations whatsoever which may arise or happen for or by reason of such suit or suits, conveyance or conveyances so to be commenced, prosecuted, made and executed.

Passed February 20, 1735-36. See Appendix XII, Section I. Repealed by the Act of Assembly passed February 17, 1762, Chapter 477.

CHAPTER CCCXLIV.

AN ACT FOR REGULATING RETAILERS OF LIQUORS NEAR THE IRON WORKS.

Whereas the erecting of furnaces for running and melting iron ore hath proved successful and advantageous to the trade of this province in general and if duly encouraged and im-

proved will render our commerce with Great Britain of esteem there and our remittances more easy and beneficial to the inhabitants here than the methods heretofore used. And whereas the act against selling rum and other liquors near those furnaces hath been found useful and necessary to prevent many inconveniencies detrimental and injurious to the said works, but the said act is now expired:

To the end, therefore, that the said inconveniencies may be still prevented and all due encouragement given to the undertakers of the said works:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons whatsoever from and after the publication of this act shall within the distance of three miles to any furnace now erected or hereafter to be erected within the said province keep a public house, sell by permit or otherwise dispose of any wine, rum, brandy or other liquors (except he or they shall be specially recommended for a license or permit to the justices of the county where such furnace is by a majority of the owners of such iron works near which he or they are desirous of keeping a public house or selling rum, wine, brandy or other liquors), under the penalty of forty shillings for every such offense, being thereof convicted by his or their own confession or by the oath or solemn affirmation of two or more credible witnesses before any justice of the peace of the county where such offense is committed, to be levied by distress and sale of the offender's goods by warrant under the hand and seal of the said justice before whom such conviction is made, which warrant such justice is hereby empowered and required to make, seal and grant. And where distress cannot be found to be made on the offender's goods it shall and may be lawful to and for the said justice of [the] peace to commit such offender or offenders to the county

goal where the offense is committed, there to remain without bail or mainprise for the space of twenty days.

[Section II.] And be it enacted by the authority aforesaid, That the justices of the peace of the county in which any such furnaces are erected, upon complaint to them made, shall and they are hereby required and enjoined at any of the general quarter-sessions of the peace to be held for any of the counties aforesaid respectively to direct and appoint the rates or prices to be taken by any innkeeper or other retailer of rum, wine, brandy and other strong liquors whatsoever to be sold within the limits or distances of the furnaces aforesaid. And if any innkeeper or retailer of strong liquors within those limits or distances shall exact, demand and take any other and greater prices for any of the liquors aforesaid than shall be so directed and appointed by the justices as aforesaid, and shall be thereof convicted by the oaths or affirmations of two credible witnesses before any one or more of the justices of the peace of the counties aforesaid respectively, every such offender shall forfeit and pay for each such offense the sum of twenty shillings, to be applied to the uses hereinafter directed.

[Section III.] And be it further enacted by the authority aforesaid, That all the fines, forfeitures and penalties mentioned in this act shall be and are hereby appropriated, one-half thereof to the overseers of the poor of the township where the offense is committed for the use of the poor of the said township, and the other half thereof to the use of the prosecutor.

And this act to continue in force for five years after its publication and from thence to the end of the next sessions of assembly and no longer.

Passed February 20, 1735-36. See Appendix XII, Section I, and the Act of Assembly passed May 26, 1744, Chapter 360.

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1737, and continued by adjournments until the second day of September, 1738, the following acts were passed:

CHAPTER CCCXLV.

AN ACT TO REMOVE THE TRUSTEES OF THE GENERAL LOAN OFFICE OF PENNSYLVANIA AND APPOINTING OTHERS TO EXECUTE THE SAID TRUST.

Whereas in the year of our Lord one thousand seven hundred and twenty-nine, Andrew Hamilton, Charles Read, Jeremiah Langhorne and Richard Hayes were by an act of general assembly of the province of Pennsylvania nominated and appointed trustees of the general loan office of the said province in the room and place of Samuel Carpenter, Jeremiah Langhorne, William Fishbourn and Philip Taylor, the former trustees of the said general loan office, with full power and authority to execute the said trust by doing and performing all matters and things whatsoever enjoined or required to be done or performed in the execution of the said trust as fully and amply as if the said Andrew Hamilton, Charles Read, Jeremiah Langhorne and Richard Hayes had been expressly named, authorized and appointed in the bodies of the several acts of assembly by which any bills of credit were emitted, re-emitted or otherwise to be issued, paid or exchanged.

And whereas in the year one thousand seven hundred and thirty-three it was resolved by the then house of representatives that the trustees of the general loan office should be removed once in four years for the future, although they may well behave themselves during that time in the said office:

And whereas the said Charles Read is since deceased and the said Andrew Hamilton requesting to be discharged from his

office of trustee of the said general loan office. It is therefore thought proper in pursuance of the said resolve to remove the present trustees and to appoint others in their stead to execute the said trust.

[Section I.] Be it therefore enacted by the Honorable George Thomas, Esquire, Lieutenant-Governor with the King's approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the Province of Pennsylvania in General Assembly met, That after the tenth day of October in the year one thousand seven hundred and thirty-eight the said Andrew Hamilton, Jeremiah Langhorne and Richard Hayes and every of them be and are hereby discharged from executing the office of trustees of the general loan office of Pennsylvania; and John Kinsey, Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland are hereby nominated and appointed trustees of the said general loan office of the province aforesaid to succeed the said present trustees, and on the tenth day of October aforesaid to enter upon the execution of their said trust, to which they are hereby appointed, for holding and ordering of the said general loan office and for receiving and issuing all bills of credit of this province according to the directions of any act or acts of assembly of this province by which any bills of credit have been or shall be emitted and made current, and for the doing and performing all matters and things enjoined or required or that shall be enjoined or required to be done by the trustees of the said general loan office in the said office by any of the acts of assembly now made or that shall be made during the continuance of the said acts or until they shall be legally removed from the said trust, as fully and amply to all intents and purposes as the present or former trustees of the general loan office of the province of Pennsylvania now can or might or could have done by virtue of any of the acts of assembly by which the said trustees therein named were appointed, and as fully as if the said John Kinsey, Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland had been nominated

and appointed trustees in the bodies of the said acts of assembly, each of the said trustees before they enter upon the execution of their trust first giving bond to the provincial treasurer for the time being in the sum of three thousand pounds, according to the directions of the said acts of assembly, with a further condition to deliver up to their successors in the said trust the mortgage-deeds and all other things belonging to the said general loan office when they shall happen to be removed from their trust, and taking the oath or affirmation therein enjoined to be taken by the trustees for the due performance of their trust.

And if any of the trustees shall happen to die or be removed for misfeasance or for not acting, some other fit person or persons shall be appointed in the place or places of such trustee or trustees in the manner directed by the thirty-thousand-pound act made in the year one thousand seven hundred and twenty-nine.

And the said John Kinsey, Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland are hereby further authorized and required from and immediately after the said tenth day of October to demand, take and receive of the said Andrew Hamilton, Jeremiah Langhorne and Richard Hayes, their heirs, executors and administrators, and of every of them and of every other person concerned, all the mortgage-deeds, bonds and warrants of attorney, together with the books of records and enrollments of the same, and all deeds, writings and evidences relating to or concerning the right or title of any lands, tenements or hereditaments or other things taken or received by the late trustees into the said general loan office for security of payment of any sum of money, and all the bills of credit remaining in their or any of their hands belonging to the said loan office.

[Section II.] And be it further enacted by the authority aforesaid, That all the aforesaid mortgages and enrollments of the same or other deeds, evidences and writings relating to or concerning any mortgage or other security for payment of any money or bills of credit into the general loan office of the province of Pennsylvania, and all plate, with the said bills of credit now remaining in their or any of their hands, whether the same

be to be re-emitted, sunk and destroyed, or exchanged for torn bills, or directed by any act or acts of general assembly to be paid to any persons for any particular uses, together with a schedule or inventory of the same, shall immediately from and after the said tenth day of October be delivered with all convenient speed to the trustees in this act named, who are hereby empowered to account with the said late trustees and to receive the mortgage-deeds, plate and other things so delivered of the said Andrew Hamilton, Jeremiah Langhorne and Richard Hayes, late trustees, or any other person whomsoever having the same in their hands or possession, and to lay the several accounts before the general assembly of this province when thereunto required. And that the receipt of the said trustees by this act appointed or any three of them shall be a sufficient discharge to the said Andrew Hamilton, Jeremiah Langhorne and Richard Hayes, their heirs, executors and administrators, for such bills of credit, plate, mortgage-deeds and enrollments of the same or other writings so delivered.

Provided always, That it shall and may be lawful for the late trustees or any of them at any seasonable time or times to have recourse to and inspection of all the mortgage-deeds or enrollments of the same with their endorsements, in order to enable them to account with the assembly of this province or their committees or any other persons to be appointed by the assembly for that purpose if any such account be required.

And that the said trustees are hereby empowered to choose and employ a fit and able person to be clerk, for whom they shall be answerable, to serve them in the said office during their pleasure under the like qualifications enjoined to be taken by the clerk in the said acts before he enter upon his office, who shall deliver to the committee of assembly when thereunto required, upon oath [or affirmation], a true list of all mortgage-deeds taken according to the directions of the aforesaid acts of assembly. And the trustees shall themselves keep fair and exact books of account, tablewise, of all the emissions of bills of credit by them let out upon loan or otherwise issued out of the said office, and of the receipts of the principal sums, quotas and interests arising thereupon, of all the moneys to them paid in.

upon all or any of the said acts of assembly; to which books of accounts the committee of assembly hereafter to be appointed to audit the said trustees' accounts shall have free access at all seasonable times, and shall further have delivered to them for the use of the assembly a fair duplicate of the said tables by the aforesaid trustees, with a list of the receipts of all such moneys paid in with the days of payment, and likewise have access to the mortgage-deeds and enrollments of the same with the bonds given by the mortgagors, to the end they may be satisfied that there is due credit given to the province for the moneys or bills of credit paid in, and that the same have been again let out without delay to such persons as have had occasion to borrow, and that the said committee may from time to time be acquainted with the state of the whole transactions and affairs belonging to the said loan office. And such of the said trustees as shall undertake and execute the said trust shall each of them receive the same like salaries as are allowed and appointed by the aforesaid several acts of assembly to be paid to the former trustees.

Passed August 25, 1738. See Appendix XIII, Section I, and notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289, and August 15, 1730, Chapter 317, and the Act of Assembly passed May 19, 1739, Chapter 353.

CHAPTER CCCXLVI.

AN ACT FOR LAYING AN EXCISE ON WINE, RUM, BRANDY AND OTHER SPIRITS.

Whereas the several acts for laying an excise on wine, rum, brandy and other spirits retailed within this province are now expired:

Therefore, to the end farther provision be made for the payment of the public debts and defraying the other necessary charges of government:

[Section I.] Be it enacted by the Honorable George Thomas,

Esquire, Lieutenant-Governor with the King's royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, &c., by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be throughout this province raised, levied, collected and paid for all rum, brandy and other spirits sold, drawn or bartered by any person or persons whatsoever by any quantity under seventy gallons, and for all wine sold, drawn or bartered under the quantity of one hogshead and to be delivered at one time and to one person at any time after the first day of September, one thousand seven hundred and thirty-eight, and before the first day of September, one thousand seven hundred and forty-three, the rate or sum of four pence per gallon, and so proportionably for a greater or lesser quantity.

[Section II.] And be it further enacted by the authority aforesaid, That every retailer of all or any of the said liquors before he or they draw, sell or barter any of the said liquors shall enter his or her name and place of abode with the collectors of the respective counties hereinafter appointed or their deputies in books to be by them kept for that purpose, and shall also take and have from the said collectors or their deputies respectively a permit for drawing or selling such liquors, for which entry and permit they shall pay one shilling and no more.

Provided always, That no such permit be granted to any person or persons to retail the liquors aforesaid the rates and duties whereof (by this act imposed) do not amount to the value of three pounds per annum and so in proportion for a lesser time, unless such retailer or retailers at the time of their obtaining such permit as aforesaid will undertake and give security if thereunto required by the said collectors respectively well and truly to pay so much to the said collectors as shall make up the rates and duties by this act imposed the sum of three pounds per annum and so proportionably for a longer or shorter time.

And all such retailers and every one of them are hereby enjoined once in every three months or oftener if required to make

true and particular entries with the collectors or their deputies aforesaid respectively upon oath or affirmation (which the said collectors or their deputies are hereby fully empowered to administer) of all wine, rum, brandy and other spirits which they or any of them shall have vended, bartered or retailed within that time, and so from time to time during the continuance of this act. And shall and are hereby required to account and pay to the said collectors or their deputies respectively once in every three months or oftener if required all such sum and sums of money as shall become due and payable by virtue of this act.

[Section III.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid shall on the entry of their names and places of abode with the officers aforesaid give unto the said collectors or their deputies an exact and true account of all wine, rum, brandy and other spirits which shall be in their possession at the time of entry aforesaid and of whom purchased, and shall also from time to time after the first day of September next, before they take into their houses, shops, cellars, vaults or stores any cask or quantity of liquors liable to pay the duties imposed by this act, make entry of all and every such cask or quantity of liquors with the collectors aforesaid or their deputies respectively, with the marks, numbers and contents thereof and of whom purchased, and shall receive from him a certificate or duplicate of such entry if required by the party, for which entry and certificate the said retailer shall pay six pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That if any retailer shall presume to retail, draw, sell or barter any of the liquors aforesaid without having first entered his or her name and place of abode with the collectors or their deputies as this act directs, every such retailer shall forfeit and pay the sum of five pounds over and above the duties for all such liquors retailed by them as aforesaid; or if after such entry made any such retailer shall refuse or neglect to make true and particular entries every three months as directed by this act, or shall refuse or neglect to account with or

pay to the said collectors or their deputies what shall appear to be due by this act upon the entries made by them as aforesaid once in every three months or oftener if thereunto required, every such retailer shall forfeit and pay for so neglecting or refusing to enter the liquors drawn every three months respectively and to account and pay as aforesaid, for the first offense the sum of forty shillings, and for the second offense five pounds, and have their permit or license taken away, and are hereby declared incapable of retailing or selling any of the liquors aforesaid during the continuance of this act. And if the person or persons liable to pay the duties arising upon selling or retailing of the liquors mentioned in this act shall neglect or refuse to pay the same in the manner and at the times herein limited and appointed by the space of ten days after the same ought to be paid, it shall and may be lawful for the said collectors respectively, by virtue of a special warrant for that purpose signed and sealed by any one justice of the peace of the city or county where the offense is committed, to empower the said collector to levy the same by distress and sale of the goods and chattels of the offender, rendering the overplus (if any be) to the owner or owners after reasonable charges deducted.

[Section V.] And be it further enacted by the authority aforesaid, That if any person shall make short or fraudulent entries of the liquors in his or her possession [as] aforesaid, or shall neglect or refuse to enter and take permits for such liquors as he or she shall receive into his or her house, shop, cellar, vault, store or other place, after the said first day of September next, all such liquors not entered as aforesaid shall be forfeited, and the collectors hereafter named or their deputies are hereby respectively empowered to enter at any time when they shall see convenient the house, cellar, vault, store or shop of any retailer, and to compare the liquors in such house, cellar, vault, shop or store with the entries made, and to seize and take away all such liquors as shall be found not truly entered as aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That the said collectors or their deputies may enter into any house, cellar, vault, store or other room to search,

examine and gauge the liquors of any person retailing with or without license or permit as often as he or they shall see fit, and upon their refusing him liberty so to do, he may force and break open doors to gauge and examine the same; and in case of opposition, if necessity requires, shall take to his assistance the sheriff or one or more constables of the town or county respectively, who without any other warrant are hereby, under the penalty of five pounds for every refusal or neglect, required to be aiding and assisting to the said collectors and their deputies therein for the better and more effectual collecting the duties, penalties and forfeitures imposed by this act.

Provided always, That there shall be allowed by the collectors or their deputies unto the several retailers of the liquors aforesaid fifteen per cent for leakage and wastage, and if any cask should happen to start or burst no duties shall be reckoned for so much of the said liquors as such retailers shall prove was lost thereby.

[Section VII.] And be it further enacted by the authority aforesaid, That Joseph Wharton, of Philadelphia, gentleman, shall be and is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that William Atkinson, of Bucks county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that Thomas Cummings, of Chester county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Chester; and that James Mitchell, of Lancaster county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Lancaster; which said several collectors are hereby empowered, by themselves or their deputies to be by them duly constituted and for whom they shall be accountable, to demand, collect, receive, and recover the excise appointed to be paid by this act of and from all and every person or persons (within their respective counties and places for which they are appointed) retailing or vending any of the liquors by this act liable to pay the duties aforesaid, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or that shall happen to arise or become due for anything done contrary to the true intent and meaning of this act.

And the said collectors are hereby required to keep true and fair accounts in writing of all their doings in the premises, which accounts they shall when thereunto required submit to the view and inspection of the provincial treasurer for the time being, and thereupon settle and adjust the said accounts and also lay the same before the assembly of this province when and so often as they shall be thereunto required.

And the said collectors and each of them shall once in three months or oftener if required pay unto the provincial treasurer all such sums of money as they shall receive by virtue of this act, to be disposed of as the assembly of this province shall think fit to direct, deducting out of the same ten per cent for all the sums by them received in the counties of Bucks, Chester and Lancaster, and seven and a-half per cent for the city and county of Philadelphia, for their trouble and care in collecting and paying the same, and deducting also one moiety of all the forfeitures by them recovered for any offense committed against this act after charges paid and satisfied; and shall be further allowed in the final adjusting their accounts with the assemblies of this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

[Section VIII.] And be it further enacted by the authority aforesaid, That if the said collectors or any of them shall refuse or neglect to collect the said excise respectively or any part thereof and pay the same unto the provincial treasurer within the time limited in this act, every such collector so refusing or neglecting shall pay all the arrearages of such excise which he ought to have collected, which shall be levied by a warrant under the hand and seal of any two magistrates of the city of Philadelphia for the time being (whereof the mayor or recorder always to be one) or of any two magistrates of the respective counties where the offense is committed directed to the sheriff of the county, who is hereby empowered and required to execute such warrant upon the goods and chattels of the collector so offending, and in case goods and chattels sufficient to make satisfaction cannot be found, then to imprison such offender until payment be made; and the collector being so distrained on and having made full satisfaction

as aforesaid, is hereby empowered without any other warrant to distrain for his own use upon all such persons as shall refuse or neglect to pay the said arrearages.

And the said respective collectors before they enter upon the execution of their said respective offices are hereby required to give bonds with two sufficient sureties to the said treasurer for the time being in manner following: (That is to say) that the said Joseph Wharton, collector of the excise, &c., for the city and county of Philadelphia, in the sum of five hundred pounds; the said William Atkinson, collector of the excise, &c., for the county of Bucks, in the sum of one hundred pounds; the said Thomas Cummings, collector of the excise, &c., for the county of Chester, in the sum of two hundred pounds; and the said James Mitchell, collector of the excise, &c., for the county of Lancaster, in the sum of one hundred pounds, for the faithful discharge of their respective duties and for their respective accounting and paying all such sums of money as they shall from time to time receive by virtue of this act.

And the said collectors are hereby required to give public notice by printed advertisements fixed on convenient public places, certifying the time of the commencement of this act and also the duties hereby imposed, with notice to the constables of their duty and full directions how and when entries are to be made in pursuance of this act.

[Section IX.] Provided always, and be it further enacted, That in case the said Joseph Wharton, William Atkinson, Thomas Cummings and James Mitchell or any of them shall refuse to take upon him or them to be the collector or collectors of the said duties, or having taken the same upon him or them shall afterwards neglect or decline the same or misbehave him or themselves therein or die during the continuance of this act, that then and in any such case the provincial treasurer shall appoint another or others in the place and stead of such person or persons [so] refusing, neglecting, misbehaving or dying, who shall have the same power and authority and shall be liable to the same restrictions and penalties as by this act is given to the collectors herein named until others shall be appointed by the assembly.

[Section X.] And be it further enacted by the authority

aforesaid, That no person or persons within this province shall during the continuance of this act retail less than one quart of rum, wine, brandy or other spirits to be delivered at one time and to one person, unless such person or persons shall be regularly recommended to the governor for the time being and by him licensed according to the direction of an act of assembly of this province in that case made and provided. And if any person or persons shall presume during the continuance of this act to retail within this province less than one quart of wine, rum, brandy or other spirits to be delivered at one time and to one person without being legally recommended and licensed as aforesaid, he, she or they so offending shall forfeit and pay the sum of five pounds over and above the duties for all such liquors by them retailed as aforesaid, or be committed to the workhouse or prison of the respective county where the offense shall be committed, there to be kept at hard labor for the space of five months, anything herein contained to the contrary notwithstanding.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every such person and persons who by virtue of licenses obtained from the governor shall be allowed to retail wine, rum, brandy or other spirits in less quantity than a quart as aforesaid, every such retailer or retailers who shall apply him, her or themselves to the justices of the court of quarter-sessions of the counties to which he, she or they respectively do belong for a recommendation to the governor to renew their licenses for keeping a public house or houses and retailing as aforesaid, every such person and persons shall on every such application and before any recommendation obtained produce certificates from the collectors of the said counties respectively to which he, she or they belong of having discharged all arrearages of money due to the said collectors or any of them for the rates and duties by this act imposed, or otherwise the said justices are hereby enjoined and required not to recommend such person or persons for the purpose aforesaid, and every such person and persons are hereby declared incapable of retailing any of the liquors aforesaid in less quantities than one quart as aforesaid, and in case any person or persons shall notwithstanding retail in less quantities than one

quart as aforesaid, he, she or they so offending shall be liable to such and the same penalties and forfeitures as by this act is imposed on other persons.

And for the better discovery of frauds and abuses:

[Section XII.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this province upon application made by any one of the said collectors or other person to summon any person or persons to appear before such justice at such time and place as he shall appoint, to give evidence upon oath or affirmation for discovery of frauds and abuses committed against this act. And if any person or persons summoned as aforesaid shall neglect or refuse to appear and give evidence as aforesaid, he, she or they so offending shall for every such offense be fined by the justice that issued out the summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section XIII.] And be it further enacted by the authority aforesaid, That all the forfeitures and offenses made, done and committed against this act or any clause or article therein contained shall be heard, adjudged and determined by such person or persons and in such manner and form as herein is directed: (That is to say) all such forfeitures and offenses made and committed within the city of Philadelphia shall be heard, adjudged and determined by any two or more of the aldermen of the said city, and all such forfeitures and offenses made and committed within any of the counties within this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeitures shall be made or offenses committed.

And if the party finds him or herself aggrieved by the judgment given by the said aldermen or justices, he or she may appeal to the justices of the peace of the next court of general quarter-sessions of the peace to be held for the respective city or county where the judgment shall be given, which court is hereby empowered and authorized to hear and determine the same and whose judgment therein shall be final.

Provided always, That no alderman or justice who shall sit on the first hearing of any such cause shall sit to hear and de-

terminine in the same cause in case any appeal shall happen to be made therein.

And the said aldermen and justices of the said city and counties of this province are hereby authorized and strictly enjoined and required, upon any complaint or information exhibited and brought of any such forfeiture made and offense committed contrary to this act, to summon the party accused, and upon his or her appearance or contempt to proceed to examination of the matters of fact, and upon due proof thereof, either by confession of the party or by oath or affirmation of one or more credible witnesses, to give judgment or sentence as before is directed, and to award and issue out warrants under their hands and seals for the levying of such forfeitures, penalties and fines as by this act is imposed for any such offenses committed upon the goods and chattels of such offender, and to cause sale to be made of such goods and chattels (if they are not redeemed within five days), rendering to the parties the overplus (if any be), the charges of distress and sale being first deducted, and for want of sufficient distress to imprison the party offending until satisfaction be made.

[Section XIV.] And be it further enacted by the authority aforesaid, That if the said magistrate, officer or any sheriff or constable shall be sued and prosecuted for anything done by them in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for his or their justification; and in case a verdict shall be given against the prosecutor, or he shall become nonsuit or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in other cases.

[Section XV.] And be it further enacted by the authority aforesaid, That all and every the constables of the respective townships or districts in this province shall and [are] hereby required, under the penalty of the forfeiture of twenty shillings for every refusal or neglect, to return on oath or affirmation unto the court of quarter-sessions in their respective counties the names and places of abode of all persons in their several townships or districts retailing or vending any liquors liable to pay the duties imposed by this act, and that the collector of

such respective county may and shall have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising upon this act.

And whereas it has been the practice of divers persons who were not retailers of the said liquors formerly to draw off certain quantities of wine, rum and other spirits and distribute the same amongst their neighbors on purpose to elude the payment of excise:

For prevention whereof for the future:

[Section XVI.] It is hereby enacted and declared, That the drawing, distributing or sharing of any rum, wine, brandy or other spirits out of any cask or casks whatsoever into any quantity or quantities less than seventy gallons each, under pretense of making it convenient for carriage or otherwise, shall be deemed and taken [to] be retailing within the meaning of this act.

Provided always nevertheless, It shall and may be lawful to and for any distiller in this province to sell to any retailer or retailers any quantity of spirits of his own distilling not less than five gallons to one person and to be delivered at one time, first making entry thereof with the collector of the county where he resides, with the retailer's name and place of abode to whom sold and number of gallons, and also at the same time taking an oath or affirmation that the same spirits by him sold as aforesaid were *bona fide* distilled in this province and from materials of the growth or produce of the said province, and are clear of all mixtures of rum or any other foreign spirits whatsoever, and the said retailer shall pay and account for the duty thereof to the said collector pursuant to the direction of this act, anything herein contained to the contrary in anywise notwithstanding.

Provided also, That the collectors of the excise aforesaid or any of them nor their or any of their deputies, nor any other person or persons to be appointed in their or any of their places or stead, shall during the continuance of this act vend, barter, sell, exchange or trade in any of the liquors aforesaid made excisable by this act under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person who will sue for the same to effect, one-half thereof to

the use of the person so suing, the other half thereof to be paid in to the provincial treasurer aforesaid toward the support of the government of this province; and the person or persons duly convicted of any such offense or offenses against this act is and are hereby disabled from acting any longer in their respective offices; and the treasurer aforesaid is hereby authorized and required to name another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the collectors named in this act until others are appointed by the general assembly of this province.

And whereas there are sundry sums of money which became due by virtue of the former act of excise still outstanding and not received by the former collectors:

[Section XVII.] Be it enacted by the authority aforesaid, That the provincial treasurer for the time being shall deliver unto the officers appointed by this act a true list of all such outstanding sums of money as became due upon the former acts of excise, together with the names and places of abode of the person or persons from whom the same are due; and the said collectors are hereby authorized and empowered to demand, recover and receive the same in the same manner as the excise arising upon this act is directed to be received and recovered, and shall upon receipt thereof pay the same to the provincial treasurer for the uses and in the manner as the other moneys are directed to be paid by this act.

[Section XVIII.] And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of September, which will be in the year one thousand seven hundred forty-three, and from thence until the end of the next sessions of assembly and no longer.

Passed August 25, 1738. See Appendix XIII, Section I, and the Act of Assembly passed May 26, 1744, Chapter 360.

CHAPTER CCCXLVII.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT FOR IMPOSING A DUTY ON PERSONS CONVICTED OF HEINOUS CRIMES AND TO PREVENT POOR AND IMPOTENT PERSONS BEING IMPORTED INTO THIS PROVINCE.

Whereas by an act of the general assembly of this province passed in the third year of the reign of our sovereign, George the Second, entitled "An act for imposing a duty on persons convicted of heinous crimes and to prevent poor and impotent persons being imported into this province,"¹ Charles Read, late of Philadelphia, merchant, was appointed collector of the duties by the said act imposed, who is since deceased. And forasmuch as the circumstances of the province require the said act should be put in execution, and no provision being therein made for appointing another officer instead of the said Charles Read:

Therefore, for remedying that defect:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, Lieutenant-Governor of the Province of Pennsylvania, by and with the advice and [consent of the repre]sentatives of the freemen of [the] said Province in General Assembly met, That Thomas Glentworth, of Philadelphia, be and he is hereby nominated and declared to be collector of the duties imposed by the before-mentioned act, and for the doing and performing all other matters and things appertaining to the said office by virtue of the said act as fully, amply and largely to all intents and purposes as the said Charles Read in his lifetime was empowered to do or could or might have done and as fully as if the said Thomas Glentworth had been expressly named and appointed collector of the duties aforesaid in the body of the said act; he the said Thomas Glentworth before entering upon the execution of his office first taking an oath or affirmation before one of the justices of the peace of the county aforesaid (which the said justice, on application to him made by the said

¹ Passed February 14, 1729-30, Chapter 314.

Thomas Glentworth, is hereby authorized and enjoined to administer) for the faithful and impartial discharge of the trust by virtue of this act committed to him according to the best of his skill and knowledge.

[Section II.] And be it further enacted, That if the aforesaid Thomas Glentworth shall by any accident be rendered incapable or neglect to execute the said office, or shall misbehave himself therein or shall happen to die, that then and so often it shall and may be lawful to and for the mayor, recorder and aldermen of the city of Philadelphia, or the majority of them to supply his or their place by some other fit and capable person, who shall thereupon be the officer for putting the act aforesaid in execution until the assembly shall appoint another.

Provided always, That before the said officers or either of them shall do anything in execution of their said office, they shall each of them respectively take an oath or affirmation in manner aforesaid faithfully and impartially to perform the duty and trust committed to them, to the best of their skill and capacity, according [to the direction of the] act aforesaid.

Passed September 2, 1738. See Appendix XIII, Section I, and note to the Act of Assembly passed February 14, 1729-30. The act in the text was repealed by the Act of Assembly passed February 3, 1742-43, Chapter 354, which latter act was repealed by the King in Council, December 17, 1746.

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1738, and continued by adjournments until the eleventh day of August, 1739, the following acts were passed:

CHAPTER CCCXLVIII.

AN ACT FOR THE MORE EFFECTUAL PRESERVING THE CREDIT OF
OUR PAPER MONEY AND RECOVERING THE PROPRIETARY QUIT-
RENTS.

Whereas it has been found by experience that bills of credit emitted upon land security as a medium in commerce has [sic] been of great service for carrying on the trade and other improvements in this province, and money and gold being now become a commodity and generally remitted to Great Britain in return for the manufactures of that kingdom imported hither:

And it being objected by the proprietors of the province of Pennsylvania that the quit-rents reserved to them and payable in sterling money are now greatly in arrear and that it would be a very great disappointment to them to receive the same otherwise than in silver money:

And whereas it would be a hardship upon the freeholders of this province to purchase silver to pay their quit-rents, and the same might also greatly affect the credit or value of our paper money and render it of less general use:

To remove which difficulties and for the preservation of the credit of our paper money, our proprietors having condescended to accept of the bills of credit of this province at the rate the same are made current bylaw in all payments for the quit-rents due or to become due to them on grants of land and lots made before the year one thousand seven hundred and thirty-two [during the continuance of this act], the representatives of the freemen of the province of Pennsylvania in general assembly

met, in consideration of the premises, have agreed to pay to them our proprietors the sum of twelve hundred pounds in bills of credit of this province at the days and times hereinafter mentioned, as also the sum of one hundred and thirty pounds annually during the re-emission of the bills of credit to be made current by an act of the general assembly [of this province] passed this session of assembly, entitled "An act for the re-printing, exchanging and re-emitting all the bills of credit of this province and for striking the further sum of eleven thousand one hundred and ten pounds five shillings to be emitted upon loan."¹

[Section I.] Therefore be it enacted by George Thomas, Esquire, with the King's approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be paid to our honorable proprietaries or their order by the trustees of the general loan office of this province for the time being out of the interest-moneys made payable to them by virtue of the act of assembly aforesaid the sum of seven hundred and thirty pounds in bills of credit on the twentieth day of October, which will be in the year of our Lord one thousand seven hundred and forty, and also the further sum of seven hundred and thirty pounds like money on the twentieth day of October, which will be in the year of our Lord one thousand seven hundred and forty-one, and likewise the sum of one hundred and thirty pounds every year after the said twentieth day of October [in the year one thousand seven hundred and forty-one] during the re-emission of the bills of credit aforesaid by the act aforesaid; which payments so made and receipts for the same from the proprietors or their order or assigns being produced, shall be deemed, taken and adjudged sufficient vouchers to discharge them the said trustees, their executors and administrators, of

¹ Passed May 19, 1739, Chapter 353.

and from so much of the interest-money payable into their hands by virtue of the act of assembly aforesaid.

And whereas the suffering the quit-rents to lie so long in arrear has proved not only a real loss to our proprietors, but at this time has brought a very great charge upon the province, which we judge may in a great measure be owing to the tedious and expensive way provided for the recovery of the said rents.

For remedying thereof:

[Section II.] Be it enacted by the authority aforesaid, That in case any person or persons holding or claiming any lands or lots within this province shall neglect to appear upon public notice given, as in and by one act of general assembly in this province made in the fourth year of the late Queen Anne, entitled "An act for the more easy and effectual collecting the proprietary quit-rents,"¹ is directed and provided, or within the space of ten days after the time limited by the aforesaid act of assembly, and pay the quit-rents that by him, her or them shall be then due to the proprietors of Pennsylvania in bills of credit of this province as then current [upon grants made before the year one thousand seven hundred and thirty-two and upon all grants made afterwards, according to the tenor of the said grants], it shall and may be lawful to and for the said receiver-general or such person as he shall appoint for that purpose to distrain the goods and chattels of the owner or possessor of the said lands for all such rents as shall then be in arrear or ought to have been paid as aforesaid, and the distress so taken to carry, lead or drive away, and if such goods or chattels shall not be replevied within the space of five days next after such distress made, then to cause the said goods and chattels to be appraised and sold in such manner and the money arising by such sales to be distributed as by an act made in the second year of the late King William and Queen Mary, entitled "An act for enabling the sale of goods distrained for rent in case the rent be not paid in reasonable time," is in that behalf directed and appointed.

And if upon such suit the person replevying shall discontinue his suit, become nonsuit or a verdict pass against him in the

¹ Passed January 12, 1765-6, Chapter 139.

said cause, the goods distrained shall be restored by the person who replevied the same, or he shall pay the rent in arrear with costs of suit and such damages only as shall be awarded by the court.

[Section III.] And be it further enacted, That where no sufficient distress can be found or where the owners of lands are not resident within this province, it shall and may be lawful for the said proprietors to cause a summons to issue in the usual manner as directed in the case of freeholders against the owner or possessor of such lands, and a copy of the said summons to be delivered by the sheriff or his deputy to such owner or possessor of the said lands or to some of his or her family ten days before the court to which [such] summons is returnable, or to leave a copy of the summons upon the land in case there be no person in possession of the same or that the owner be a non-resident at least ten days before the day of the return of the summons in the presence of one witness at least, and in case of the non-appearance of the party by himself or lawful attorney, then judgment to be entered against the defendant for the rent due with costs of suit. And the better to avoid the expense and delay often occasioned by long and tedious special pleadings, it shall and may be lawful and sufficient for the said proprietors, where any action or suit shall be brought or distress made for quit-rents due to them, to declare generally as proprietors of Pennsylvania upon an *insimul computasent* in debt or otherwise to avow as the case may require for so much quit-rent due to them out of the lands or lots and for so many years in arrear, to which the defendant may appear and plead that he or those under whom he claims hath or have paid the whole or some part of the rents demanded, as the cause may be, or that he made a lawful tender of all the moneys due for rent in arrear and is still ready and offers to pay the same, and if verdict or judgment be given for such defendant he shall thereupon be discharged without payment of costs.

Provided always, That nothing herein contained shall be deemed to repeal or disannul the aforesaid act of general assembly for the more easy and effectual collecting of the pro-

prietors' quit-rents, except such part thereof as is hereby altered or other provision made by this act; and that this act continue until the fifteenth day of October in the year one thousand seven hundred and forty-nine and no longer.

Passed May 19, 1739. See Appendix XIV, Section I, and note to the Act of Assembly passed January 12, 1705-6, Chapter 139. Expired, but see the acts of Assembly passed March 7, 1745-46, Chapter 363. Repealed by the Act of Assembly passed November 27, 1779, Chapter 874.

CHAPTER CCCXLIX.

AN ACT FOR THE BETTER ENABLING DIVERS INHABITANTS OF THE PROVINCE OF PENNSYLVANIA TO TRADE AND HOLD LANDS WITHIN THE SAID PROVINCE.¹

Whereas by the royal charter of the late King Charles the Second to William Penn, Esquire, late proprietary and governor of the province of Pennsylvania, license is granted to all persons not specially forbidden to transport themselves and families into the said province in such shipping as by the laws of the Kingdom of England they ought to use, paying the customs therefor due, and here to settle themselves, dwell and inherit, and plant for the public and their own private advantage, with license to purchase and hold lands in fee simple or otherwise of the said proprietary and his heirs, with full license to all persons who shall from time to time repair hither with a purpose to inhabit or trade with the natives of this country to load, freight and transport all and singular their goods, wares and merchandise not prohibited by the laws and statutes of England into any ports whatsoever of the said late King, his heirs and successors, according to the laws made or to be made within the said Kingdom of England, saving always to the said late King, his heirs and successors, the legal im-

¹See note to Chapter 309.

sitions, customs or other duties due or to become due by any law or statute for the said wares or merchandises as by the said royal charter (among other things) may more fully appear.

And whereas, Joannes Dylander, Christian Grassold, Henry Shocklier, Michael Jansen Halling, Daniel Steinmetz, Johannes Smith, David Deshler, Hans George Passage, David Seesholtz, Stephen Greiff, Hans George Hickner, Sebastian Mirry, Rudolph Bonner, Baltazar Resser, Junior, Joannes Zacharias, Charles Bensel, Junior, Daniel Mackned, Junior, Justis Reeb-Camp, Charles Reeb-Camp, Jacob Gallette, Anthony Hinkel, Peter Righter, William Rerigh, Henry Shoub, Christopher Roab, Caspar Singer, Ludowick Knaus, William Hauke, Leonhart Christler, Johannes Wilhelm, Ludowick Cirkel, Ludowick Hinnige, George Creesman, Frederick Gotshall, Andreas Trombouer, Jacob Trombouer, Hartman Dettermmer, Philip Enghert, Leonhart Hartline, Michael Klein, Joseph Coob, Henry Deinig, Johan Ditterig Bauman, Johan Kleim, Frederick Marstaller, Matthias Koplin, Johannes Bender, Henry Deeringer, Adam Moser, Peter Jarger, Samuel Gooldin, Hans George Jarger, Jacob Frey, Christopher Witman, Andreas Geisberts, Andreas Jager, Jacob Aister, Andreas Kepler, Benedictus Munts, John Eigster, Michael Herger, Philip Haan, Conrath Dotterer, Bernhard Dotterer, Herman Fisher, Frederick Hillengas, Philip Labar, Michael Knappenberger, Michael Dotterer, George Hubner, Conrath Kolb, George Philip Dotterer, Johan Miller, Jacob Freeh, Henry Smith, Leonhart Smith, Rowland Smith, Michael Kraus, Daniel Kreestman, Abraham Beyer, Michael Good, George Good, Henry Snyder, Adam Reed, Christopher Ottinger, Anthony Jager, Nicholas Jager, Johan Henry Weeber, Johan Jacob Roth, Johannes Geldbagh and Christian Gondy, inhabitants of the city and county of Philadelphia; Henry Bernhart, Mick[a]el Neace and Adam Shaffer, inhabitants of the county of Bucks; Michael Albert, William Albert, Leonhart Bender, George Miller, John Bushung, Nicholas Candle, John Hagey, Charles Keller, Stephen Remsberger, Ludowick Dettenburn, Jacob Bare, Junior, John Leiberger, Michael Becker, John Peter Coohar, Christian Lower, John Libough, Bartholomew Shaver, Caspar Stump,

Jacob Becker, Tobias Pickle, Peter Rutt, George Kline, Paul Tittenhoffer, Matthias Tise, George Ludowick Horst, Sebastian Graff, Johan Henry Basseler, Mattheas Jung, Jacob Shloug, Henry Michael Immel, Felix Miller, Martin Weybrecht, Frederick Eighelberger, Sebastian Fink, Hans Adam Shreiner, Christian Long, Caspar Tiller, Anthony Bretter, Leonhart Ellmaker, Andreas Bersinger, Hans Graff, Jacob Hartman, Theophilus Hartman, Theophilus Hartman, Junior, Benjamin Witmer, Adam Witmer, Joannes Pinkley, Turst Buckwalter, Henry Neaff, Junior, Valentine Hergelrat, Henry Basseler, Johan Stetler, Leonhart Romler, Leonhart Heyer, Peter Shell, Johan Nohaker, Nicholas Miller, Johan Hock, Thomas Koppenheffer, Michael Koppenheffer, Christian Leeman, George Unrook, Jacob Shaffer, Valentine Keefer, Jacob Etshberger, Herman Walburn, Caspar Reed, Christian Manu-smith, Nicholas Cutts, George Weyrick, Christopher Ley, Jacob Lower, Hans Moor, John Blum, George Steitz, Erasmus Buckenmeyer and George Groff, inhabitants of the county of Lancaster, being of the Protestant or Reformed religion and subjects of the Emperor of Germany and other princes now in amity with the King of Great Britain, having transported themselves with their families and effects into this province, and being desirous to be made partakers of the immunities belonging to the natural-born subjects of this province, and to be more effectually secured of those privileges and advantages granted by his said late Majesty, King Charles the Second, to persons coming into this province to settle and inhabit, they having as a testimony of their fidelity and affection to his present Majesty, King George the Second, and the Crown of Great Britain, taken the qualifications to his Majesty and government by law appointed and enjoined to be taken, obtained leave to bring in this bill to the present assembly.

Therefore may it please the governor that it may be enacted:

[Section I.] And be it enacted by George Thomas, Esquire, Lieutenant-Governor with the royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries and Governors

of the Province of [Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same], That they the said Joannes Dylander, Christian Grassold, Henry Shocklier, Michael Jansen Halling, Daniel Steinmetz, Johannes Smith, David Deshler, Hans George Passage, David Seesholtz, Stephen Greif, Hans George Hickner, Sebastian Mirry, Rudolph Bonner, Baltazar Resser, Junior, Joannes Zacharias, Charles Benzel, Junior, Daniel Mackned, Junior, Justis Reeb-Camp, Charles Reeb-Camp, Jacob Gallette, Anthony Hinkel, Peter Righter, William Rerig, Henry Shoub, Christopher Roab, Caspar Singer, Ludowick Knaus, William Hauke, Leonhart Christler, Johannes Wilhelm, Ludowick Cirkel, Ludowick Hinnige, George Creesman, Frederick Gotshall, Andreas Trombouer, Jacob Trombouer, Hartman Determer, Philip Enghert, Leonhart Hartline, Michael Klein, Joseph Coob, Henry Deinig, Johan Ditterig Bauman, Johan Kleim, Frederick Marstaller, Matthias Koplin, Johannes Bender, Henry Deeringer, Adam Moser, Peter Jarger, Samuel Gooldin, Hans George Jarger, Jacob Frey, Christopher Witman, Andreas Geisberts, Andreas Jager, Jacob Aister, Andreas Kepler, Benedictus Muntz, John Eigster, Michael Herger, Philip Haan, Conratd Dotterer, Bernhart Dotterer, Herman Fisher, Frederick Hillengas, Philip Labar, Michael Knappenberger, Michael Dotterer, George Hubner, Conrath Kolb, George Philip Dotterer, Johan Miller, Jacob Freeh, Henry Smith, Leonhart Smith, Rowland Smith, Michael Kraus, Daniel Kreestman, Abraham Beyer, Michael Good, George Good, Henry Snyder, Adam Reed, Christopher Ottinger, Anthony Jager, Nicolaus Jager, Johan Henry Weeber, Johan Jacob Roth, Johannes Geldbagh, Christian Gondy, Henry Bernhard, Mick[a]el Neace, Adam Shaffer, Michael Albert, William Albert, Leonhart Bender, George Miller, John Bushung, Nicholas Candle, John Hagey, Charles Keller, Stephen Remsberger, Ludowick Dettenburn, Jacob Bare, Junior, John Leiberger, Michael Becker, John Peter Coohar, Christian Lawer, John Libough, Bartholomew Shaver, Caspar Stump, Jacob Becker, Tobias Pickle, Peter

Rutt, George Kline, Paul Tittenhoffer, Matthias Tise, George Ludowick Horst, Sebastian Graff, Johan Henry Basseler, Mattheas Jung, Jacob Shloug, Henry Michael Immel, Felix Miller, Martin Weybrecht, Frederick Eighelberger, Sebastian Fink, Hans Adam Shreiner, Christian Long, Caspar Tiller, Anthony Bretter, Leonhart Ellmaker, Andreas Bersinger, Hans Graff, Jacob Hartman, Theophilus Hartman, Theophilus Hartman, Junior, Benjamin Witmer, Adam Witmer, Johannes Pinkley, Turst Buckwalter, Henry Neaf, Junior, Valentine Hergelrat, Henry Basseler, Johan Stetler, Leonhart Romler, Leonhart Heyer, Peter Shell, Johan Nohaker, Nicholas Miller, Johan Hock, Thomas Koppenheffer, Michael Koppenheffer, Ohristian Leeman, George Unrook, Jacob Shaffer, Valentine Keefer, Jacob Etshberger, Herman Wallburn, Caspar Reed, Christian Manusmith, Nicholas Cutts, George Weyrick, Christopher Ley, Jacob Lower, Hans Moor, John Blum, George Steitz, Erasmus Buckenmeyer and George Groff and every of them are hereby declared and shall at all times hereafter be esteemed and taken to all intents and purposes to be and to have been since their first arrival into this province free and fully able and capable to trade, traffic, load, freight and transport all and all manner of goods, wares and merchandise not by law prohibited to be imported or exported as if they and every of them had been the natural liege people and subjects of the King of Great Britain, born in this province of Pennsylvania; and also that they and each of them shall and are hereby enabled and adjudged able to all intents, constructions and purposes whatsoever, as well to demand, take, have and enjoy any privileges and immunities belonging to His Majesty's liege people and natural subjects of this province, as also to have and enjoy all lands and tenements and all other hereditaments by way of purchase or gift of any person or persons whatsoever, and also to prosecute, pursue, maintain, avow and justify all and all manner of actions, suits and causes, and all other things to do as lawfully, freely and fully as if they and every of them had been and were born natural subjects in this province or

as any other person or persons born within this province may lawfully in anywise do, any law, custom or usage to the contrary thereof in anywise notwithstanding.

Passed May 19, 1739. See Appendix XIV, Section I, and the Acts of Assembly passed February 3, 1742-43, Chapter 359; June 20, 1759, Chapter 445; (the Constitution of 1776, Plan of Government, Section 42;) June 13, 1777, Chapter 756; August 31, 1778, Chapter 803; March 4, 1786, Chapter 1206; February 11, 1789, Chapter 1387.

CHAPTER CCCL.

A SUPPLEMENT TO THE ACT FOR ELECTING MEMBERS OF ASSEMBLY.

Whereas notwithstanding the just and impartial method prescribed for electing of members of assembly by the charter of privileges granted by the Honorable William Penn, Esquire, late proprietor and governor-in-chief of the province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, to the inhabitants thereof, and of the several acts of general assembly of the said province made in pursuance of the said charter for the more free, impartial and peaceable election of members to serve in the general assembly of the said province, and of sheriffs, coroners, commissioners, assessors and of inspectors to assist in the said election, it hath nevertheless been found upon experience that the present method prescribed by the laws of this province for choosing inspectors to assist the sheriff and for receiving the poll or votes at the said elections hath not answered the good purposes for which it was intended, but great numbers of disorderly persons, many of whom not being qualified to vote for members of assembly, &c., have mixed themselves among the electors at the time of choosing inspectors, and have by their rude and disorderly behavior disturbed the electors and created strifes and quarrels, to the great danger and disquiet of the peaceable people there met together and in delay of the said elections.

And whereas it often happens that the said inspectors are chosen most or all of them out of one part of the county, and by reason thereof cannot be so well acquainted with the estates and circumstances of all the electors, which was the principal end of their first appointment.

For remedying of which inconveniencies for the future:

[Section I.] Be it enacted by George Thomas, Esquire, with the King's approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and [the] counties of Newcastle, Kent and Sussex upon Delaware, by and with the [advice and] consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the justices of the respective counties within this province shall at their next general quarter-sessions of the peace to be held for the county to which they belong next after the publication of this act proceed to divide their counties into eight districts or hundreds, allotting as near as may be an equal number of the adjacent townships to each district, and shall cause the clerk of the peace to enroll or preserve the same among the records or proceedings of the said court and to deliver to the sheriff of the respective counties an account of the several districts or hundreds within the county as divided by the justices afore-said, with the names of the several townships in each of the said districts, all of which the said sheriff shall make known to the respective constables within his county with all expedition, that they may thereby be the better enabled to discharge their several trusts in pursuance of the directions of this act.

[Section II.] And be it further enacted, That the freeholders and others qualified to elect members of assembly in each township shall meet on the twenty-fifth day of September yearly, but if the same happen upon a first day of the week, then upon the next day following, at some convenient place within their said respective townships to be appointed by the constable of the said township, or in case of his absence, neglect or refusal, then at such convenient place within such town-

ship as the overseers of the poor shall appoint; and the said electors being qualified to vote for members of assembly shall between the hours of nine in the forenoon and two in the afternoon the same day in the presence of the constable and such two freeholders as he shall call to his assistance, or in his absence the overseers of the poor, proceed by a majority of voices to nominate one able and discreet freeholder of the said township who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, the name of which person so nominated and chosen is to be taken down in writing by the constable or overseer of the poor, as the case shall happen, with the name of the township for which he is chosen, and shall be delivered to the sheriff of the county at the place of election or to such person or persons as shall happen to be judges of the election before the hour of nine in the forenoon of the day whereupon the election of members of assembly shall happen. And the sheriff or other judge of the election, having then and there received the names of all the persons chosen for the respective townships within his county or so many of them as shall be delivered to him in manner aforesaid, he shall call to his assistance at least four freeholders of the county, and in their presence shall put all the names of the persons returned for each district into a separate box to be provided by him for that purpose; and shall likewise in the presence of the said freeholders call some indifferent person, who shall draw one name out of each box and deliver the same to the sheriff or other judge of the election, which being done the persons whose names shall happen to be drawn and being present shall for that year be the inspectors of the election and as such shall be published by the sheriff in the presence of the electors or so many of them as shall be present.

[Section III.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the inhabitants of the respective wards of the city of Philadelphia qualified to vote for members of assembly to meet together at the time hereinbefore mentioned for the meeting of the inhabitants of the respective townships in this province, and at some convenient place within their respective wards to be appointed by the

constable of the ward to which he belongs, of which public notice shall be given in writing by affixing the same upon the court-house door in Philadelphia at least six days before the said twenty-fifth of September, and there shall in the presence of the constable of the ward and such two freeholders of the said ward as he shall call to his assistance proceed by a majority of voices to nominate one substantial freeholder of ability and integrity residing within the said ward, whose name when so chosen shall be taken in writing and certified by the constable and freeholders aforesaid to the sheriff of the county or other judge of the said election in the manner before directed for the constables of townships; and the sheriff shall put the names of all the persons so to him returned into a box and shall call some indifferent person, who shall draw four of the said names out of the said box and deliver the same to the sheriff, who shall read the same publicly in the presence of the electors then present. And the four persons whose names shall so happen to be drawn shall, together with the inspectors chosen out of the several districts of the said county, be the inspectors for that year for the election, and as such shall be qualified in the manner before directed for other inspectors, and the other six persons whose names shall remain in the box shall be the inspectors for that year for the city of Philadelphia and shall be qualified in manner aforesaid.

But before they proceed to act in assisting the sheriff to receive the poll or votes of the said electors they shall be qualified by oath or affirmation by the sheriff of the proper county or other judges of the elections, who are hereby required and empowered to administer the same, that they the said inspectors will duly attend the ensuing election during the continuance thereof, and will truly and faithfully assist the sheriff, coroners or other judges of the said election to prevent all frauds and deceits whatsoever of electors or others in carrying on the same and in causing the poll or votes at such election to be taken and cast up according to the direction of the before-recited act.

And the said inspectors shall and are hereby authorized to administer to every elector or person who presents his ticket

an oath or affirmation in the words directed by the aforesaid act of assembly, unless the qualification of such elector be generally well known and some one or more of the said inspectors shall and will openly declare to the rest that they know such elector to be qualified as in the aforesaid act of assembly is required, and the votes or tickets of such as offer to poll and refuse to take the said oath or affirmation shall be openly rejected, and the votes or tickets of every person who takes the said oath or affirmation shall with the other lawful tickets or votes be put into the box, and no ticket so received shall be suppressed.

And to the end this act may be duly executed and the peace preserved:

[Section IV.] Be it therefore enacted by the authority aforesaid, That the constables of the respective townships within the several counties of this province, or in case of the death, neglect or absence of the said constables then the overseers of the poor of such township or one of them, shall at least ten days before the said twenty-fifth day of September in every year give public notice in writing by affixing the same at the most public places in the respective townships of the place where the inhabitants of the township in which they live shall meet to nominate a fit person, according to the direction of this act; and that the said constable, or in his absence the overseer of the poor [as] aforesaid, shall there attend at the time appointed in this act; and such constable or overseer of the poor shall call to his assistance two substantial freeholders of the said township being there present, who shall assist him in judging of the said nomination or in taking the poll if need be, and who together with himself shall certify to the sheriff of the county or other judge of the election under their hands that such person was nominated by a majority of lawful voices by the township to which he belongs, which nomination so made as aforesaid shall be delivered to the sheriff, &c., of the county to which they belong in the manner hereinbefore directed.

And if any constable or overseer of the poor, being the judge of such nomination as aforesaid, shall neglect to do the duty

hereby enjoined him or shall willfully misbehave himself in the execution of his duty, and being thereof legally convict, or if any of the persons so nominated and returned for any township within this province in the manner before directed shall neglect or refuse to give his attendance at the time and place of electing members of assembly, every such person so offending in any of the premises shall forfeit the sum of five pounds to any person who will sue for the same, to be recovered by action of debt in any court of record within this province [with costs of suit]; and if the person whose name shall happen to be drawn being called shall not appear, then the name of another person belonging to the same district shall be drawn and [he] shall be qualified and proceed to officiate as an inspector in the manner before directed in this act for inspectors.

[Section V.] And be it enacted by the authority aforesaid, That an act of assembly of this province, entitled "A supplementary act to the act for ascertaining the number of members of assembly and to regulate elections,"¹ and every article and clause therein shall be and is hereby repealed.

Provided always, That nothing herein contained shall be deemed or taken to alter or make void the said-recited act of general assembly made in the fourth year of the reign of the late Queen Anne or anything therein contained, but that every clause, article and sentence therein except what is hereby altered or supplied shall be and remain in full force and virtue as the same was before the making of this act or the aforesaid supplementary act hereby repealed.

This act to continue for the space of three years, and from thence to the end of the next session of assembly and no longer.

Passed May 19, 1739. See Appendix XIV, Section I, and the Act of Assembly passed February 3, 1742-43, Chapter 356.

¹ Passed August 18, 1727, Chapter 296.

CHAPTER CCCLI.

A SUPPLEMENT TO AN ACT OF ASSEMBLY OF THIS PROVINCE, ENTITLED
"AN ACT PRESCRIBING THE FORMS OF DECLARATIONS OF FIDELITY,
ABJURATION AND AFFIRMATION, INSTEAD OF THE FORMS HERETO-
FORE REQUIRED IN SUCH CASES."¹

Whereas the liberty of conscience freely enjoyed by the inhabitants of this province ever since its first settlement hath encouraged great numbers of Protestants of different persuasions to remove themselves and families hither, where they have generally behaved themselves soberly and given testimony of their fidelity and affection to his present Majesty and his royal predecessors, Kings and Queens of Great Britain; yet notwithstanding many of them have labored under difficulties frequently happening relating to the forms of taking the oaths, declarations and abjurations prescribed by the laws of that part of Great Britain called England. And whereas by the aforesaid act of assembly, which afterwards received his late Majesty's royal approbation, great ease and relief was granted to the people called Quakers, who conscientiously scruple the taking an oath. And whereas many other Protestant dissenters inhabiting this province, who (notwithstanding they are willing to take an oath) are under the like conscientious scruple as to the form of administering and taking the same, especially those of the Presbyterian persuasion [as] established in that part of the Kingdom of Great Britain called Scotland, who in taking an oath do scruple kissing the Bible, and yet are obliged to bear their share of the burden of the government and to serve their country in common with the rest of the inhabitants. It is therefore judged reasonable to relieve them from the difficulties aforesaid and give them ease in that behalf.

May it therefore please the governor that it may be enacted:
[Section I.] And be it enacted by George Thomas, Esquire,

¹ Passed May 9, 1724, Chapter 281.

with the King's [royal] approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That in all cases where an oath by law is required or enjoined to be taken by any person or persons conscientiously scrupling to take the same in the usual form, yet [who] voluntarily offers to take an oath by repeating the same, the ceremony of the book excepted, or shall take the oath commonly administered and taken in Scotland, such oath or oaths shall be accepted of, judged and allowed to be of the same force and effect to all intents and purposes in all courts of justice and elsewhere within this province as if such persons had taken the oath in the usual form, anything in the before-recited act of assembly or any law, custom or usage to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That if any person or persons shall take such oath or oaths in the manner allowed of by this act, and shall be lawfully convicted of willful, false and corrupt swearing in any matter or thing whatsoever which if sworn in the usual form of taking an oath in the Kingdom of England would have amounted to willful and corrupt perjury, every such person so offending shall suffer and incur such pains, penalties and forfeitures as are inflicted on persons convict of willful and corrupt perjury by the statute laws of that part of Great Britain called England.

Passed May 19, 1739. See Appendix XIV, Section I. Repealed by the King in Council, May 12, 1740.

CHAPTER CCCLII.

AN ACT FOR THE MORE EASY AND SPEEDY RECOVERY OF SMALL DEBTS.

Whereas it is found by experience that a great number of the lawsuits which are commenced in this province are brought against the poorer sort of people for small sums of money, who are unable to bear the expenses arising by the common method of prosecution:

Therefore, for remedying thereof:

[Section I.] Be it enacted by George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all actions for debt or other demand for the value of forty shillings and upwards and not exceeding five pounds (except such actions as are hereinafter excepted) shall immediately after the publication of this act be and are hereby made cognizable before any justice of the peace of any of the counties in this province in the county in which the defendant shall be or reside; and the said justices are hereby respectively empowered and required, upon complaint to either of them made for any such debt or demand, to issue a warrant in the nature of a summons or *capias*, as the case may require, directed to the constable of the township or district where the defendant dwells or can be found, commanding him to bring or cause such defendant to appear before him at the time and in the manner following: (That is to say) in cases where such process shall be in the nature of a *capias*, forthwith after the service thereof; but where a summons shall be issued, then on some certain day.

therein to be expressed not less than five nor exceeding eight days from the date of such process; and at the time appointed for the hearing of any such cause the said justice himself, or at the request of the parties by auditors or referees to that purpose by him appointed and approved of by the said parties, shall proceed to hear and examine the proofs and allegations of the plaintiff and defendant, and upon the return of such auditors or otherwise to give his judgment thereupon as the true merits and right of the cause shall appear to him, with such costs only as by the laws of this province are allowed in debts under forty shillings.

Provided always, That the process against a freeholder shall be by summons only, and service shall be made thereof on the person or a copy thereof left at the house of the defendant in the presence of one or more of his family or neighbors at least four days before the time appointed for a hearing; and in case the defendant does not appear at the time appointed, then on oath or affirmation made by the constable that the said summons was duly served in manner aforesaid, the justice who granted the same summons may either then or on such further day as he shall deem consistent with reason and the nature of the case to appoint and not otherwise to [sic] proceed to hear and determine such cause or causes in the defendant's absence and give judgment and award execution thereupon as if the defendant had been personally present.

[Section II.] And be it further enacted by the authority aforesaid, That after judgment given in any of the cases aforesaid the justice who pronounced the same shall grant execution thereupon directed to the constable aforesaid, commanding him to levy the debt or damages and costs on the defendant's goods and chattels (who by virtue thereof shall within the space of ten days next following expose the same to sale by public vendue, returning the overplus if any be to the defendant), and for want of sufficient distress to take the body of such defendant into custody and him or her to carry and convey to the common gaol of the county; and the sheriff or keeper of such gaol is hereby required to receive the person or persons so taken in execution and him, her or them safely to keep until the sum recovered with costs be fully paid, and in default of

such safe keeping to be liable to answer the damages to the party grieved in such manner as by law is provided in case of escapes. But in case no assets belonging to the defendant sufficient to pay the debt and costs can be found, it shall and may be lawful for the plaintiff to apply to the justice who pronounced the judgment for a transcript thereof, and on filing the same in the prothonotary's office of the court of common pleas in that county in which the recovery shall be had it shall and may be lawful for the plaintiff to levy the sum recovered with costs of suit on the lands and tenements of the defendant, either by *feri facias*, *venditioni exponas* or extent as the case may require in like manner as by law is provided in other cases.

Provided always, That no such execution shall be issued against any freeholder in less than the space of three months next after the entry of such judgment unless the plaintiff or somebody for him or her shall on oath or affirmation declare that he or she hath good reason to believe that the debt will by such delay be lost, for that at the end of the said term or before it (he or she believes) the defendant will not have sufficient assets in the county on which the said debt may be levied. And if any judgment to be given as aforesaid shall be against a person not a freeholder, such person shall have the execution against him or her respited for like term of three months on his or her entering into recognizance to the plaintiff with one sufficient security in the nature of special bail on condition to deliver the body of the defendant to the sheriff of the county at the expiration of the time so to be allowed or that the condemnation money shall then be paid, and in default of giving such security shall be committed to the common gaol of the county, there to remain until the debt and costs shall be paid or such defendant otherwise legally discharged.

Provided also, That where the plaintiff in any cause shall become nonsuit or judgment shall pass against him, then the justice is hereby required to assess the defendant his reasonable costs, to be levied in manner aforesaid.

Provided also, That it shall and may be lawful for the justices of the respective courts of common pleas to give such relief to any insolvent debtor or debtors prosecuted in pur-

suance of this act as they might have done by the laws now in force in case this act had not been made.

Provided also, That if any person or persons shall conceive him, her or themselves aggrieved by any such judgment so to be given (cases determined on the return of auditors or referees as aforesaid only excepted) it shall and may be lawful for such person or persons at any time within the space of six days next following the giving of such judgment, but not after, to appeal therefrom to the next court of common pleas to be holden for the county in which such suit shall be commenced, he, she or they first entering into recognizance with at least one sufficient security at least in double value of the debt or damage sued for and sufficient to answer all costs to prosecute the said appeal with effect and to abide the order of the said court, or in default thereof to be sent by *mittimus*, to the sheriff of the county, by him to be kept until he, she or they shall give such security or be otherwise legally discharged.

[Section III.] And be it further enacted by the authority aforesaid, That the said justices shall cause fair entries to be made in books by them to be provided for that purpose of the name of the plaintiff and defendant in all such cases as may come before them, with the debt and costs adjudged and the time when the same judgment was given; and upon any appeal made from any such judgment the justice who pronounced the same shall send a transcript thereof to the prothonotary of the court of common pleas of the county in which such appeal is made on or before the first day of the term next following any such appeal; for which transcript or any other obtained by virtue of this act the justice shall be allowed in the costs to be taxed eighteen pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That at the court to which any such appeal shall be made the person so appealing shall cause an entry of his suit to be made by the prothonotary of such court, and shall either have his appearance entered or give bail to the action, as the nature of the case may require; or on neglect thereof and application of the appellee to the court for that end, the appellant's default shall be recorded, the first judgment af-

firmed with reasonable costs and execution shall be issued out of the said court against the defendant's body, goods or chattels, as is usual in other cases. And in case the defendant shall appeal or give bail as aforesaid, the plaintiff or defendant in the appeal (as the case may require) shall file his or her declaration and the adverse party plead to issue in such time as shall be directed by the court, so always that the cause be tried by a jury of the country in the usual manner, either the court to which such appeal is made or the next term at furthest (unless the court on cause to them shown shall think fit to give the parties a further day) and as the verdict shall be rendered in any of the said causes the court shall give judgment thereupon as the nature of the case may require with costs of suit.

Provided always, That if the parties appellant and appellee shall neglect or refuse to file his or her declaration or to plead to issue in such time as shall be directed by the court, a nonsuit or judgment by default may be entered for want thereof as usual.

Provided also, That the costs to be taxed in any such suit to the several officers and others concerned for the services by them respectively to be done shall be two-third parts only of the costs now usually taken in the said courts of common pleas.

Provided also, That none of the justices who by virtue of this act shall hear and determine any of the causes aforesaid out of court shall afterwards sit on the hearing and determining the same cause on an appeal made to any of the courts of common pleas aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That if any person or persons whosoever shall commence, sue or prosecute any suit or suits for any debts or demands made cognizable as aforesaid in other manner than is directed by this act and shall obtain a verdict or judgment therein for debt or damages, which without costs of suit shall not amount to more than five pounds (not having caused an oath or affirmation to be made before the obtaining of the writ of summons or *capias* and filed the same in the prothonotary's office respectively that he, she or they so making oath or affirmation did truly believe the debt due or damage sustained

exceeded the sum of (five pounds), he, she or they so prosecuting shall not recover any costs in such suit, any law, usage or custom to the contrary notwithstanding.

Provided also, That this act nor any thing herein contained shall be deemed, construed or understood to extend to actions of debt for rent, debt upon bonds for performance of covenants, to actions of covenant, to actions of replevin or upon any real contract; nor to actions of trespass on the case for trover and conversion or slander; nor to actions of trespass for assault and battery or imprisonment; nor to such actions where the title of lands shall anywise come in question.

Provided also, That this act shall continue in force for the space of three years and from thence to the end of the next session of [the] assembly and no longer.

Passed May 19, 1739. See Appendix XIV, Section I, and note to the Act of Assembly passed February 21, 1735-36, Chapter 341, and the Act of Assembly passed February 3, 1742-43, Chapter 355.

CHAPTER CCCLIII.

AN ACT FOR REPRINTING, EXCHANGING AND RE-EMITTING ALL THE BILLS OF CREDIT OF THIS PROVINCE, AND FOR STRIKING THE FURTHER SUM OF ELEVEN THOUSAND ONE HUNDRED AND TEN POUNDS FIVE SHILLINGS TO BE EMITTED UPON LOAN.

Whereas through the scarcity of silver and gold in this province, occasioned by remitting the same to Great Britain to pay for the product and manufactures of that kingdom imported hither for the use of the inhabitants, sundry sums of money in bills of credit were formerly emitted, which by experience have been found to be very useful for carrying on the trade and commerce of this province. And whereas in pursuance of the direction of former acts of assembly by which the said bills of credit were emitted a great part of the same have been sunk and destroyed, so that there is not current in the province at this

time more than the value of sixty-eight thousand eight hundred and eighty-nine pounds fifteen shillings in the said bills of credit, which, since the great increase of the inhabitants as well as the trade of the province, is found to fall short of a proper medium for negotiating our commerce and supporting the government. And whereas it appears that great quantities of counterfeit bills in the likeness and imitation of genuine bills of credit of this province have been imported among us, which has rendered it necessary to call in all our bills of credit and to emit others of the same value but of a different impression from the former.

To the end, therefore, that the wants of those concerned in trade may be supplied and the government supported, and to prevent the people's being imposed upon by the said counterfeit bills made in imitation of the present bills of credit of this province:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the said Province and counties, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That indented bills of credit of the value of eighty thousand pounds of lawful money of America (according to an act of Parliament made in the sixth year of the late Queen Anne for ascertaining the rates of foreign coins in the plantations in America) shall before the tenth day of August next after the passing of this act be prepared and printed on good, strong paper, under the care and direction of John Kinsey, Jonathan Robeson, Joseph Kirkbride, Caleb Cowpland and John Wright, the trustees of the general loan office of the province of Pennsylvania, and at the charge of the public, to be defrayed out of the interest-money arising or to arise upon the loan of any bills of credit formerly emitted or to be emitted by any trustees of the said general loan office, which

bills shall be made and prepared in manner and form following and no other, viz.:

This indented bill

s. of xx

 shall pass current for shillings within the province of Pennsylvania, according to an act of assembly of the said province made in the twelfth year of the reign of King George the Second. Dated the tenth day of August, one thousand seven hundred and thirty-nine.

And the same bills shall have such like escutcheon¹ as in the margin hereof, with such other devices on the said bills as the said trustees shall think fit, as well to prevent counterfeits as to distinguish their several denominations, each of which bills shall be of the several and respective denominations following and no other, viz.:

Ten thousand of the same bills, the sum of one shilling in each of them.

Ten thousand of the same bills, the sum of one shilling and six pence in each of them.

Ten thousand of the same bills, the sum of two shillings in each of them.

Ten thousand of the same bills, the sum of two shillings and six pence in each of them.

Thirty thousand of the same bills, the sum of five shillings in each of them.

Forty thousand of the same bills, the sum of ten shillings in each of them.

Twenty thousand of the same bills, the sum of fifteen shillings in each of them; and

Thirty-four thousand of the same bills, the sum of twenty shillings in each of them.

And the said trustees shall use the best of their care, attention and diligence during the printing of the said bills that the number and amount thereof according to their respective denominations aforesaid be not exceeded, nor any clandestine or fraudulent practice used by the printer, his servants or persons concerned therein.

And for the perfecting the said bills to make them current within this province, according to the true intent and meaning of this act:

¹ Not here reproduced for want of facilities.

[Section II.] Be it further enacted by the authority aforesaid, That all and every [of] the said bills shall be signed by the persons following or by three of them at least: (That is to say) Thomas Leech and William Monington, of Philadelphia county; Abraham Chapman, of Bucks county; Joseph Harvey, of Chester county, and Samuel Smith, of Lancaster county, who are hereby nominated and appointed to be the signers of the said bills, and shall before they presume to receive or sign any of the said bills of credit take an oath or affirmation to the following effect, to wit:

That they shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver or cause to be delivered unto the trustees of the general loan office of the province of Pennsylvania, pursuant to the direction of this act.

And for avoiding the danger of embezzlement or misapplication of any of the said bills of credit:

[Section III.] It is hereby further ordained and provided, That the said trustees after the said bills are printed shall deliver them to the said signers to be signed and numbered by parcels, for which the said signers [or some of them] shall give their receipts: (That is to say) one thousand pounds value in the said bills at one time, and so from time to time till all the said bills of credit shall be signed and numbered, yet so as that the said trustees shall not deliver any other of the said bills to the signers aforesaid whilst the sum in their custody unchanged exceeds one thousand pounds, of all which bills of credit so delivered to be signed by the trustees true accounts shall be kept by the signers, who upon their re-delivery of each or any parcel of the said bills of credit by them signed and numbered to the trustees of the general loan office shall take the receipt of the said trustees to charge them before any committee of assembly to be appointed for that purpose.

And the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them signed and numbered within ten days after the re-delivery thereof to the said trustees, to be by them paid out of the interest-money in the said trustees' hands.

And if any of the persons before nominated to be signers shall happen to die or be rendered incapable of doing his or their duty by this act required, the assembly for the time being shall appoint some other person or persons in his or their stead from time to time until all the bills hereby directed to be made be wholly signed and numbered as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That the said trustees after the receipt of any parcel of the said new bills signed and numbered as aforesaid, or some fit person for whom they shall be accountable, shall give due attendance at their office on every fourth day of the week, and shall deliver out the same unto such persons as shall demand them in exchange for bills of the same value made and emitted by the direction of any former act of assembly of this province, which said old bills shall be kept by the said trustees for their vouchers to discharge them of so much of the aforesaid eighty thousand pounds value in new bills as they shall have given in exchange as aforesaid before any committee of assembly to be appointed for that purpose, who having duly examined such old bills so received in exchange, shall cause the same to be burnt and destroyed in their presence; and the said trustees shall have for their trouble and care in exchanging every ten thousand pounds value of the said old bills the sum of twenty-seven pounds ten shillings to be defrayed out of the interest-money aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That all the aforesaid bills of credit made and emitted by any former act of assembly of this province shall, from and after the tenth day of August, one thousand seven hundred and forty, cease to be current bills of this province and from thenceforth become null and void and of no effect, any law, custom or usage to the contrary thereof in anywise notwithstanding.

And the said new bills hereby directed to be made and signed as aforesaid to be emitted in exchange or loans as this act directs shall from and after the tenth day of August, one thousand seven hundred and thirty-nine, be the current bills of this province for the payment and discharge of all manner

of debts, rents, sum and sums of money whatsoever, due, payable or accruing upon or by reason of any mortgage, bill, specialty, bond, note, book account, promise or any other contract or cause whatsoever as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or in any other contract whatsoever, and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

[Section VI.] And be it further enacted by the authority aforesaid, That the said trustees shall be in and have capacity and power to take, hold and enjoy to them and their successors in the said trust all such lands, tenements, rents and hereditaments and all such plate as shall be granted them in mortgage or which hath at any time heretofore been granted to any trustee or trustees of the general loan office of Pennsylvania for securing the repayment of the money or bills formerly lent or hereby directed to be lent; and also to sell, grant, alien and dispose of the same lands, tenements, rents, hereditaments and plate in default of payment, and also to do, execute, perform and suffer all other things whatsoever as fully to all intents and purposes as any trustees of the general loan office aforesaid by any former act of assembly of this province may or might have done, executed, performed and suffered. And upon the death or removal of any of the present trustees or of any other that shall be nominated and appointed hereafter, it shall and may be lawful to and for the general assembly of this province for the time being to appoint some other fit person or persons in his or their place and stead, who shall have the same power and authority as if they had been nominated and appointed by virtue of this act.

[Section VII.] Provided always, and it is hereby further enacted, That none of the persons hereinbefore nominated or hereafter to be appointed trustees of the general loan office aforesaid shall longer continue in the exercise of the said office than the space of four years from the time of such their nomination as aforesaid and from thence to the end of the then next session of assembly.

Provided also, That none of the trustees so as aforesaid nominated or to be nominated and appointed according to the direction of this act or any of them or any of their heirs, executors or administrators or securities hereby directed to be given, be acquitted or discharged for anything done or suffered in or about the trust hereby committed to them until they have accounted for and paid and delivered up to the succeeding trustees all bills, moneys, securities and writings belonging to the loan office, and so from time to time during the continuance of this act, anything herein contained to the contrary notwithstanding. But before any of the present trustees or such as shall hereafter be appointed trustees shall enter upon the execution of their trust or any part thereof, they shall each of them enter into bond to the treasurer of this province in the sum of three thousand pounds conditioned for the execution of the trust and performance of all things required of them by this act, and shall take an oath or affirmation before some justice of the peace in the words following, viz.:

I, A. B., will according to the best of my skill and knowledge faithfully, impartially and truly demean myself in the discharge of the trust required of me by an act of assembly of this province, entitled "An act for reprinting, exchanging and re-emitting all the bills of credit of this province, and for striking the further sum of eleven thousand one hundred and ten pounds and five shillings, to be emitted upon loan," so as none may be prejudiced by my consent, privity or procurement.

[Section VIII.] And be it further enacted by the authority aforesaid, That the said trustees shall lend out the value of eleven thousand one hundred and ten pounds five shillings in the bills hereby directed to be made for and during the space and unto the full end and term of sixteen years from the fifteenth day of October in the year of our Lord one thousand seven hundred and thirty-nine; all which loans made by virtue of this act shall be made in sums not exceeding one hundred pounds nor less than twelve pounds to any one person upon mortgages of messuages, lands, tenements, rents and hereditaments in this province, whereof the borrowers stand seized in fee simple in their own right, free from incum-

brances, the proprietary quit-rents and other rents charged on the same and discovered to the said trustees only excepted, of which titles and clearness the trustees are to inform themselves the best they can by any of the ways and means heretofore granted and allowed to the former trustees of the said general loan office or to any of them, and shall inform themselves as well of the clear value of the titles of all lands, houses and ground rents offered in security so as to be satisfied that the lands and ground rents are held in fee simple and are at least of double the value of the sums requested to be lent; and that as to the houses erected upon ground subject to the payment of ground rent offered in mortgage, care shall be taken by the said trustees that there be no rent or quit-rent in arrear at the time of receiving the same in mortgage, and that the ground shall be near equal in value above the ground rent to the sum lent, yet so that the house and ground be of double value, for the better security of the mortgage-money. And thereupon the said trustees, in pursuance of the trust hereby committed to them, shall in the name and style of the trustees of the general loan office of the province of Pennsylvania and not otherwise take and receive deeds of mortgage in fee simple of such messuages, lands, tenements, rents and hereditaments with the appurtenances to secure the re-payment of the sums they lend, to be made yearly on the fifteenth day of October by equal payments with the whole interest accrued at the rate of five pounds per cent per annum.

[Section IX] Provided always, and it is hereby further enacted, That the better to enable any of the mortgagors by any former act of assembly to discharge their mortgages, it shall and may be lawful to and for the said trustees and they are hereby required to permit those mortgagors or their heirs or such other person or persons to whom they have made over their right or redemption and estate in their mortgaged messuages, lands and rents to renew their mortgages respectively if they the said trustees shall judge them a sufficient security for the sums thereon due and in arrear, although the same exceed the sum aforesaid limited to one person, to be repaid

according to the proportions and within the times by this present act limited and appointed.

Provided also, That if any mortgagor of any messuages, lands and rents by this act directed, his heirs, executors or assigns, shall be minded to pay off and discharge his mortgage and security at any other time than according to the time specified in his mortgage deed, it shall be lawful for him or them so to do before sale of the mortgaged premises by paying down the whole principal sum due and in arrear, together with the interest and charges then accrued.

[Section X.] And be it further enacted by the authority aforesaid, That the principal sums and all and singular the parts, parcels or quotas thereof or any of them payable to the trustees of the said general loan office by the provincial treasurer or any of the county treasurers or by the mayor or treasurer of the city of Philadelphia or by any mortgagor or person whatsoever, as also the quotas of the sums appropriated for building the state house, shall not be sunk or destroyed otherwise or at any other time than by this present act is directed, limited and appointed, any law, custom or usage to the contrary notwithstanding; but the same principal sums and all other yearly payments of principal sums hereinbefore directed to be emitted on loans as this act directs now in the hands of the said trustees or hereafter to be recovered or received by them before the fifteenth day of October, one thousand seven hundred and forty-nine, shall be from time to time re-emitted on securities as hereinbefore directed for the residue of the aforesaid term of sixteen years. And also, so often as any mortgage-moneys directed to be re-emitted as aforesaid shall be recovered or received before the aforesaid fifteenth day of October, one thousand seven hundred and forty-nine, the principal moneys thence arising shall in like manner from time to time be re-emitted again on securities as aforesaid. And the said trustees or some three of them shall weekly attend at their office on the third and fourth days in every week (commonly called Tuesdays and Wednesdays) until the aforesaid sum of eleven thousand one hundred and ten pounds, five shillings, shall be wholly emitted as this act

directs; and afterwards on the third day of the second week in the months commonly called April, June, August, October, December and February in every year of the continuance of this act and at such other times as their duty and trust shall require; which deeds of mortgage shall be fairly entered in books of large paper to be provided by the said trustees, an attested copy of which deeds so entered and certified by the said trustees or any three of them for the time being shall be and is hereby declared to be good evidence to prove the mortgage thereby mentioned to be made; and on every of the aforesaid deeds of mortgage shall be endorsed or added an oath or affirmation, to be taken by the mortgagor or mortgagors before some or one of the said trustees, who are hereby empowered and required to administer the same, that he, she or they is or are seized of the hereditaments and premises thereby granted in his, her or their own right, and to his, her or their own use, and that free from all arrearages of the proprietors' quit-rent and all incumbrances to the knowledge of such mortgagor, the yearly quit-rents thenceforth issuing payable to the chief lord or lords of the fee thereof and such other rents if any as are therein particularly mentioned and discovered to the trustees only excepted; and the aforesaid deeds, being so executed and acknowledged, shall transfer the possession and vest the inheritance of and in such mortgaged premises to and in the said trustees and their successors as fully and effectually as deeds of feoffment with livery and seizin or deeds enrolled in any of the King's courts of Westminster may or can do.

In all which deeds the words "grant, bargain and sell" shall be and be adjudged in all places and courts whatsoever within this province to have the force and effect of a covenant that the mortgagor, notwithstanding any act done by him, was at the time of the execution of such deed seized of the hereditaments and premises thereby granted of an indefeasible estate of inheritance, free from incumbrances (the rents so as aforesaid to be discovered to the said trustees only excepted).

[Section XI.] And be it further enacted by the authority aforesaid, That together with every of the aforesaid mortgage-

deeds the respective mortgagor shall execute a bond of double the mortgage-money conditioned for the payment of the money borrowed with the interest, according to the proviso or condition contained in each such mortgage-deed, and also a warrant of attorney empowering such person or persons as the trustees shall appoint to confess or suffer judgment, which the said trustees are hereby required to cause their attorney to enter in any of the courts of common pleas of this province against such mortgagor as shall make default in payment of the mortgage-moneys or any part thereof on the said bonds or mortgages for non-performance of the conditions thereof as in such actions of debt as the said trustees are required to bring for the value of the said bills of credit received by the mortgagors whose titles shall happen to prove defective, together with the interest and costs of suit, in every which warrants of attorney shall be inserted a release of errors by the mortgagor.

Provided always nevertheless, That until some default be made in payment of some part of the mortgage-moneys by the mortgagors respectively it shall and may be lawful to and for them and their heirs to hold and enjoy the mortgaged premises, anything in this act or in their mortgage-deeds to the contrary notwithstanding; but if default shall be made or suffered in payment of any part of the mortgage-moneys aforesaid, whether of the principal or interest, which the mortgagors, their heirs, executors, administrators or assigns, should or ought to pay, according to the days of payment aforesaid and as in their respective deeds of mortgage shall be specified, it shall and may be lawful to and for the said trustees for the time being at any time after two months next after default made as aforesaid to enter upon the messuages, lands, rents and hereditaments respectively in the deeds of mortgage specified and the same thereupon to sell and convey to the best purchaser, and out of the moneys arising by such sale to detain and keep the sums thereon due unto them with all costs and charges relating thereunto, returning the overplus (if any) to the owners of such lands and hereditaments, who shall there-

upon stand foreclosed of and from all right of redemption of the same.

[Section XII.] Provided always, and it is hereby further enacted, That it shall and may be lawful to and for the said trustees or any three of them at any time or times before the aforesaid fifteenth day of October, one thousand seven hundred and forty-nine, to lend out in such manner as to them shall seem best any sums in the bills aforesaid not exceeding one hundred pounds nor less than twelve pounds to one person, on securities of good plate at the value of six shillings per ounce, to be repaid to the said trustees within twelve months with the interest thereof at the rate aforesaid; and in case of the non-payment to sell and dispose of such plate for the most it will yield, returning the overplus (if any be) to the owner after payment of the sum lent, with the interest aforesaid and all charges thereupon accrued.

Provided always, That where any part of the mortgage-moneys hath been paid, the trustees shall endorse upon the writ of execution the real sum of principal and interest due to the said loan office, and the sheriff shall thereupon proceed as in other cases of sale of lands to sell so much of the mortgaged premises as near as he can judge as will be sufficient to pay the whole debt and costs, and if any overplus remain in the sheriff's hands after the payment of the whole moneys due to the said loan office with the costs and charges accrued thereupon, the said sheriff shall render the same to the debtor or defendant, his or their executors or administrators, and put the said purchaser into peaceable and quiet possession of the messuages, lands and tenements so sold as aforesaid, who shall hold and enjoy the same to his heirs and assigns as fully and amply as he or they for whose debt the same shall be sold might, could or ought to have done at any time before the taking thereof in execution, freed and discharged from all claim of dower by any person claiming under the defendant for whose debt the same was sold.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said trustees shall endorse upon each mortgage-deed their receipts of all the yearly quotas to be paid by

the respective mortgagors, which they shall also note on the counterparts to them produced when required, for which receipts they shall be paid by the mortgagors six pence each and no more; and upon the last payment thereof the said trustees shall enter in the margin of the enrollment of the mortgage-deed the time of the discharge thereof, for which they shall receive of the mortgagors six pence and no more.

And the said trustees shall keep distinct, fair and true accounts of all the sums they receive by virtue of this and the before-recited acts respectively and of what they lend, pay or emit by virtue hereof or by orders of the assembly, whether in part of principal or interest-moneys, and shall have and receive for their trouble and service the sum of one hundred and ten pounds apiece per annum during the continuance of their re-emitting on mortgage as this act directs, which will be until the fifteenth day of October, Anno Domini one thousand seven hundred forty-nine, and afterwards the sum of eighty pounds apiece per annum during the future continuance of this act, which payments shall be made in bills of credit of this province unto each of them, his executors or administrators.

[Section XIV.] And be it further enacted [by the authority aforesaid], That the said trustees shall once in every year or oftener exhibit their accounts aforesaid unto the committees of assembly of this province appointed for that purpose, with whom they shall from time to time settle and adjust; and all the interest-money by them from time to time received being accounted for, and the salaries and charges allowed for by this act being deducted, the residue thereof shall be disposed of as the assembly of this province shall direct and appoint; and as for and concerning all yearly quotas and payments in the bills aforesaid (part of the principal sums to be emitted or re-emitted upon loans as this act directs) which by virtue hereof or of any mortgage or security heretofore taken or to be taken as aforesaid shall be recovered or received and remaining in the loan office on or after the fifteenth day of October, in the year of our Lord one thousand seven hundred forty-nine, the trustees of the loan office aforesaid shall from time to time as they come to their hands exhibit the same bills to the aforesaid

committees, who, having duly examined and compared them, shall cause the same to be burnt and destroyed in their presence.

And the better to prevent inconveniencies arising from indulging the mortgagors to be behind in their payments hereby directed to be made:

[Section XV.] Be it further enacted by the authority aforesaid, That the trustees for the time being shall and they are hereby required to keep the mortgagors, in pursuance of this act, up to their annual payments as by the same act is directed and appointed; and the committees of assembly to be annually appointed to audit the said trustees' accounts are hereby directed not to allow of any quotas in arrear and unpaid which have been due twelve months at the time of the settlement, excepting only such sums for which the trustees have commenced suit or otherwise have proceeded according to the direction of this act for the recovery of the money due.

[Section XVI.] And be it further enacted by the authority aforesaid, That the said trustees shall, for the better regulating of their said office, choose and employ a fit and able person for their clerk during their pleasure, for whom they shall be answerable, who shall prepare the deeds of mortgage, with the mortgagors' affidavits, bonds, warrants of attorney and releases of errors, and shall have and receive the following fees and no more, to wit, for every mortgage-deed, recording the same, the counterpart or copy thereof, the mortgagor's oath or affirmation endorsed on the mortgage-deed and the bond, warrant of attorney and release of errors, the sum of twenty shillings and no more, to be paid by the said trustees out of the interest-moneys aforesaid; and the said clerk shall keep true accounts of the names of all persons applying to borrow on securities as this act directs, and shall record their deeds of mortgage in the same order of time as they were executed, and shall once a year make out a list of the names of all mortgagors by this act directed, with the sums they borrow and date of their mortgage-deeds, and the same list shall deliver to the committees of assembly to be appointed auditors of the said trustees' accounts. But before any person so chosen to be clerk shall enter

upon the execution of his office, he shall take an oath or affirmation before some justice of the peace that he will truly and faithfully perform the office and duty that is directed and required of him by this act, wherein he will make no undue preference, unnecessary delays or fraudulent practice.

[Section XVII.] And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act or any law of this province by printing or procuring the same to be printed or otherwise counterfeited in the likeness of the said genuine bills of credit, and also if any person or persons shall forge the name or names of the signers of the true bills of credit to such counterfeit bills, whether the counterfeiting of the said bills or names be done within this province or elsewhere, or shall utter such bills knowing them to be counterfeited as aforesaid, and being thereof legally convicted by confession, standing mute or by the verdict of twelve men in any court of record within this province, he, she or they shall suffer death without benefit of the clergy; and the discoverer or informer shall have as encouragement for his discovery the sum of fifty pounds [out] of the goods and chattels, lands and tenements of the person convicted, and if no such goods and chattels can be found, then the trustees of the general loan office shall pay to such informer or discoverer, his executors, administrators or assigns, the sum of ten pounds. And if any person or persons shall counterfeit any of the said bills of credit of this province by altering the denomination [of the said bills] with design to increase the value of such bills, or shall utter such bills knowing them to be counterfeited or altered as aforesaid and shall thereof be legally convicted in any court of record in this province, such person or persons shall be sentenced to the pillory, and to have both his or her ears cut off and nailed to the pillory and to be publicly whipped on his or her bare back with thirty-one lashes well laid on; and moreover, every such offender shall forfeit the sum of one hundred pounds lawful money of Pennsylvania, to be levied on his and her lands and tenements, goods and chattels, the one-half to the use of the governor and the other half to the discoverer; and the offender shall pay to the party grieved double

the value of the damages thereby sustained, together with the costs and charges of prosecution; and in case the offender hath not sufficient to satisfy the discoverer for his or her damages and charges and pay the forfeiture aforesaid, in such case the offender shall by order of the court where he or she was convicted be sold for any term not exceeding seven years for satisfaction; and in such case the said trustees shall reward the discoverer of such insolvent offender to the value of five pounds. And every such counterfeit bill shall be delivered to any of the said trustees, to be made use of upon the trial of the person accused or suspected and afterwards to be burnt or destroyed by the said trustees in the presence of a committee of assembly.

[Section XVIII.] And it is hereby declared and enacted by the authority aforesaid, That this act shall be taken and allowed in all courts and places within this province as a public act, and all judges, justices and other persons concerned are hereby required to take notice thereof as such without pleading the same especially.

Passed May 19, 1739. See Appendix XIV, Section I, and note to the Act of Assembly passed March 5, 1725-26, Chapter 289, and the Act of Assembly passed May 26, 1744, Chapter 361.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1742, and continued by adjournments until the thirteenth day of August, 1743, the following acts were passed:

CHAPTER CCCLIV.

AN ACT IMPOSING A DUTY ON PERSONS CONVICTED OF HEINOUS CRIMES BROUGHT INTO THIS PROVINCE AND NOT WARRANTED BY THE LAWS OF GREAT BRITAIN, AND TO PREVENT POOR AND IMPOTENT PERSONS BEING IMPORTED INTO THE SAME.

Whereas many person trading into this province have for lucre and private gain imported and sold or disposed of and daily do import passengers and servants into this province, who by reason of age, impotency or idleness have become a heavy burden and charge upon the inhabitants thereof; and likewise do frequently import divers persons convicted of heinous crimes who soon after their coming into this province do often commit many felonies, robberies, thefts and burglaries, to the great hurt of His Majesty's subjects trading to and inhabiting the same:

[Section I.] Be it therefore enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries and Governors-in-Chief of the said Province and counties, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all masters of vessels, merchants or others who shall import, land or bring into any port or place belonging to this province at any time after the publication of this act any person in the condition of a servant or otherwise within the intent and meaning of this act, who have [sic] been convicted of any murder,

burglary, rape, sodomy, forgery, perjury or any felony at any time before such importation or coming into this province, shall before the said convicts be landed or put on shore pay the sum of five pounds for every such convict so imported or otherwise brought in, one moiety thereof to the governor for support of government, and the other moiety to the collectors appointed by this act or the informer, and shall further become bound with good and sufficient security to the treasurer of this province for the time being in the sum of fifty pounds for the good behavior of such convict person for the space of one year next after his or her importation or coming into this province.

And whereas it hath been a practice for masters of vessels, merchants and others trading into this province, with intent to avoid complying with the payment of the duties and giving the security required by former acts of assembly of this province, made to prevent the importation of convicts and poor and impotent persons, to land their passengers, servants and convicts in some of the adjacent governments, which passengers, servants, impotent people and convicts have afterwards been secretly brought into this province:

Therefore to prevent such or the like practices for the future:

[Section II.] Be it enacted by the authority aforesaid, That if any such convict as aforesaid or servant or passenger, being poor and impotent persons, shall be imported into the river Delaware after the publication of this act and shall be found within this province at any time within the space of twelve months next after their being imported as aforesaid, whether such persons were landed within this government or elsewhere, it shall and may be lawful for the collectors of the duties appointed by this act or their deputies for the time being, and for any justice of the peace or principal magistrate or magistrates of any city or county or town within this province, to cause to be apprehended, taken up and to examine upon oath or affirmation all such convicts as aforesaid or passengers and servants, being poor and impotent persons, and all other persons who may be supposed to be able to make any discovery of the time and manner of their being imported or coming into this province, and from whence they came last, how long they have

been come from parts beyond the seas, of what country and in what vessel, and who was master or merchant of such vessel, and whether such vessel at the time of such person or persons being shipped or coming on board was bound to or designed for Pennsylvania, and whether such person or persons shipped themselves with intent to come into this province. And if upon examination it shall appear to any two justices of the peace within this province or to any principal magistrate aforesaid or to the mayor and recorder or to either of them, with any one of the aldermen of the city of Philadelphia, that the said persons were shipped or took their passages for Pennsylvania or were shipped or came from any other port or place whatsoever and were found within this province, then the said magistrates before whom such examination is taken shall demand and compel the persons if convicts immediately to comply with the directions of this act by paying the duties hereby imposed on them and giving the security directed in the case of convicts by this act, and shall be and are hereby empowered and required to send for the master and merchant of such vessel or either of them in which the said persons were supposed to be imported (if to be found within the province) and to examine such master or merchant upon their oath or affirmation concerning the said servants, passengers or convicts and their importation or coming into this province; and if it shall appear that the said persons so apprehended or any other persons, being convicts as aforesaid, were shipped or taken on board to be imported into Pennsylvania, and put on shore or permitted to go on shore by such master or merchant in any other government upon the river Delaware or upon any place or island within the said river without making report and complying with the directions of this act, then in such case the said master or merchant shall be obliged forthwith to give security for his or their appearance at the next court of general quarter-sessions of the peace to be held for the city or county where such examination is taken; and if upon presentment or information he or they shall be legally convicted of such fraudulent practice, he, she or they so offending shall forfeit the sum of twenty pounds for every person so by him or them brought in as aforesaid and put or

permitted to be put on shore, and for every such person as afterwards at any time within the space of twelve months next after their being landed or put on shore shall be found within this province without making such entry and paying the duties and giving the security required by this act, one-half to the governor and the other half to the collector of the county in which they shall be respectively imported or brought in or informer, and shall further pay the same duties and give the same security for such convicts as aforesaid as if such persons had been imported into this province and report thereof made according to the direction of this act.

[Section III.] And be it further enacted by the authority aforesaid, That upon information given to the mayor and recorder of the city of Philadelphia for the time being or the mayor or recorder together with one of the aldermen of the said city or to any two justices of the peace or other principal magistrate of any county or town within this province that any old persons, infants, maimed, lunatic or any vagabond or vagrant persons are imported, come or brought into this province, the said mayor, recorder and aldermen or any two of them as aforesaid, or any two justices of the peace of the respective counties where such persons shall be found, shall cause such aged persons, infants, impotent or vagrant persons to be brought before them, and if upon examination they shall judge that such person or persons are likely to become chargeable to the city, town or county where they are found or were imported, it shall and may be lawful for the said mayor, recorder and aldermen or any two justices of the peace or principal magistrate as aforesaid, by warrant or otherwise, to send for the master, merchant or other person who imported any such infant, lunatic, aged, maimed, impotent or vagrant person or persons as aforesaid as are likely to become chargeable as aforesaid, and upon proof made of their being the owners or importers of such infant, lunatic, aged, maimed, impotent or vagrant persons who shall be judged to be likely to become chargeable as aforesaid, the said mayor, recorder and aldermen or any two of them as aforesaid, or any two justices or principal magistrate as aforesaid, shall and may compel the

said master, merchant or importer of such infant, lunatic, maimed, aged, impotent or vagrant person or persons to give sufficient security to carry and transport such infant, lunatic, maimed, aged, impotent or vagrant person or persons to the place or places from whence such person or persons were imported, or otherwise to indemnify the inhabitants of this province from any charge that may come or be brought upon them by such infant, lunatic, maimed, aged, impotent or vagrant person or persons coming into or living within this province.

Provided always, That if any person or persons shall apprehend him or themselves aggrieved with any such order or judgment of the justice or justices of the peace or other magistrates who shall make the same, the person or persons so aggrieved may appeal to the next court of general quarter-sessions of the peace to be held for the city or county where such order shall be made, whose judgment then shall be final; but before such appeal be allowed of the person or persons appealing shall enter into a recognizance with one good security at least to pay the cost and charges of such appeal in case the said order shall happen to be confirmed.

And for the better discovery of such convicts and poor and impotent or idle and vagrant persons who shall hereafter be imported into and likely to become chargeable to the inhabitants of this province:

[Section IV.] Be it further enacted by the authority aforesaid, That all masters of vessels, merchants and others who shall hereafter bring into any port or place belonging to this province by land or water any men or women passengers or servants shall within the space of forty-eight hours after their arrival into any port or place of this province make entry and give or cause to be given, on oath or affirmation, to the collector of the said duty for the time being a true and just account of all the names of the servants and passengers so imported or brought in, which account the said collector shall duly enter and shall forthwith give notice thereof to the mayor of Philadelphia for the time being if such servants, passengers, &c., are designed to be landed at Philadelphia, or to any two or more of His Majesty's justices of the peace or to the principal magistrate for the town or county where such servants

or passengers shall be imported; and the said mayor or justices as aforesaid are hereby respectively empowered and enjoined immediately, by warrant or otherwise, to call before them the said master, merchant or other person or persons importing such servant or servants or passengers as aforesaid, and to examine upon oath or affirmation the said master, merchant and all other persons who may be supposed to have any knowledge of the characters and circumstances of such servants or passengers, and thereupon shall grant unto the master, merchant or owner or other person having the charge or care of any servant or servants or passengers so imported or brought into this province a certificate containing the names of all the servants or passengers which such justices or other magistrates aforesaid shall judge fit to be landed or disposed of as servants and do not appear to them to have been formerly convicted of any of the crimes mentioned in this act, or such as do not appear to them to be such infants, lunatic, maimed, aged, impotent or vagrant persons as they shall judge likely to become chargeable to the inhabitants of this province; for which examination, permit and certificate there shall be paid to the mayor or justices or magistrates aforesaid the sum of nine pence per head, and to the collector or his deputy twelve pence per head, one-half thereof to his own use for the services enjoined him by this act and the other half to be paid to the trustees of the Province Island for the time being, to be applied to repair the buildings there, to provide conveniencies for the reception of such sick persons as shall be sent thither and for such other uses as by them shall be found necessary in the discharge of their trust; for which sums of money so to be received the said trustees shall daily account in like manner as for other money received in pursuance of the trust in them reposed. And there shall likewise be paid to the said collector for each bond he shall take in pursuance of anything required to be done by virtue of this act the sum of two shillings and six pence and no more.

[Section V.] Provided nevertheless, and it is hereby further enacted, That if after such examination taken and certificate granted as aforesaid it shall be made appear that any of the

persons so landed or imported are convicts, the master, merchant or other person who imported such convict or convicts shall be liable to pay the same duty and give the same security as if no such examination had been taken or certificate granted, anything in this act contained to the contrary notwithstanding.

Provided also, That where the master, owner or merchant shall pay the said duties for any passenger or passengers, it shall and may be lawful for such master, owner or merchant to recover the same of the said passenger or passengers before any one justice of the peace in the respective county, city or towns within this province in like manner as debts under forty shillings are recovered, together with costs of suit.

And if any servant or servants, convict or other person shall be imported or brought into and landed in any port or place within this province without making such entry as aforesaid in the manner before directed, and paying the duty and giving the security required by this act and within the time limited by this act for that purpose, and obtaining such certificate from the mayor or justices or principal magistrate as aforesaid, every such master, merchant and other person so importing, bringing in or landing such servants or other persons shall forfeit and pay for each servant or other person so imported, brought in or landed contrary to the direction of this act the sum of ten pounds, one-half after the charges of prosecution deducted to the governor for the support of government, and the other half to the collector or collectors or to such person or persons who shall sue for the same in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed.

Provided always, That this act nor anything herein contained shall extend or be construed to extend to hinder the importation of such servants or others who by any acts of the Parliament of Great Britain or that part of Great Britain called England now in force can or may be legally imported into this province.

[Section VI.] And be it further enacted by the authority aforesaid, That all persons obliged by this act to make entry

as aforesaid shall apply to Joseph Prichard, of the city of Philadelphia, gentleman, who shall be and is hereby appointed collector of the said duty imposed by this act, without any notice or request made by him for their so doing; upon which application and entry so made with the said collector or at any time before it shall and may be lawful for the said collector and his deputies, and he or they are hereby enjoined and required, to repair on board the ship or vessel in which such passengers shall be imported and to view their condition in respect to sickness or health, and where he shall have just cause to suspect any infectious distemper is amongst them if the same vessel be in or near the city of Philadelphia he shall forthwith apply himself to the governor for the time being, or in his absence and in all the other counties within this province to any two justices of the peace of the said counties respectively, and give information thereof, who shall thereupon direct some physician at the cost and expense of the master or owner of the vessel to go on board such vessel so suspected, and after view and inquiry into the premises to make report of the true state in which he shall find such passengers; and where it shall at any time happen sick and infectious passengers are in any vessel they shall be removed by directions from the governor for the time being or justices aforesaid unto Province Island, there to remain until they shall be restored to health and the danger of spreading the infection by their means removed.

[Section VII.] And be it further enacted by the authority aforesaid, That the said collector or his deputies to be by him duly constituted and for whom he shall be accountable may and shall (a warrant being first obtained under the hand and seal of one of His Majesty's justices of the peace) enter on board any ship, sloop or vessel whatsoever lying or being within any port or place of this province or into any house, store or place whatsoever to search for and make discovery of any such convicts, infants, lunatics, aged, maimed, impotent or vagrant persons landed or intended to be landed contrary to the intent and meaning of this act; and if the said master or merchant or their servants or others shall deny the said officer

or his deputies entrance, or if he or any of them shall be any way obstructed or molested in making such discovery as aforesaid, every such person so offending shall forfeit and pay the sum of twenty pounds, one-half thereof to the governor and the other half to the collector or informer. And the said collector is hereby further empowered to receive, collect, demand and recover from all persons importing, landing or bringing in any servant or servants or other persons into any port or place within this province all forfeitures and penalties hereinbefore appointed to be set, imposed and levied by virtue of this act.

[Section VIII.] And be it further enacted by the authority aforesaid, That if the said Joseph Prichard shall neglect or refuse, by himself or his sufficient deputy or deputies, to do, execute and perform the several services by this act enjoined him, he the said officer shall forfeit and pay fifty pounds, the one-half thereof to the trustees of the Province Island aforesaid for the uses aforesaid, and the other half to any one that will sue for the same in the court of common pleas of the respective counties by action of debt, bill, plaint or information.

And whereas it has been the practice for masters of vessels, merchants and others, importers of servants into this province, to sell and dispose of such servants as are infirm or afflicted with secret and loathsome diseases and so otherwise disabled as to become useless and burdensome to the purchasers, to the great damage and loss of the purchasers themselves and to the province in general:

For the prevention whereof for the future:

[Section IX.] It is hereby enacted and declared, That every master, merchant or other person who shall import and sell or dispose of any servant or servants who at the time of such sale were with child or afflicted with such secret or other diseases as shall render them incapable of performing the ordinary and reasonable duties of servants, such master, merchant or other person or persons so disposing of or selling such servant or servants shall be liable to answer the purchaser or purchasers all damages which he, she or they shall sustain by means of such sale or sales in an action or actions of the case to be brought against such seller or sellers in any court of

record within this province, to be recovered with full costs of suit.

[Section X.] And be it further enacted by the authority aforesaid, That one act of general assembly of this province, entitled "An act for imposing a duty on persons convicted of heinous crimes and imported into this province," &c.,¹ and one other act of general assembly, entitled "An act for laying a duty on foreigners and Irish servants, &c., imported into this province,"² and one other act of general assembly, entitled "An act imposing a duty on persons convicted of heinous crimes and to prevent poor and impotent persons being imported into the province of Pennsylvania,"³ and one other act of general assembly, entitled "A supplement to the act entitled 'An act for imposing a duty on persons convicted of heinous crimes and to prevent poor and impotent persons being imported into this province,'"⁴ be and are hereby repealed and made void.

Provided always, That nothing herein contained shall extend or be construed to extend to discharge any sum of money or other duty payable by the aforesaid four recited acts of assembly or either of them, but that the aforesaid acts as to the recovery of any sum or sums of money, duty or penalty forfeited, become due or payable before the publication of this act by virtue of or by breach of the aforesaid acts or either of them do and shall continue and remain in full force until the said sums of money, duty or forfeitures be effectually levied, recovered and received.

And whereas by a law of this province for the better regulation of servants it is provided that no servant shall be assigned over to any person but in presence of one justice of the peace.

[Section XI.] Be it further enacted by the authority aforesaid, That all sales or assignments of servants within the city of Philadelphia shall be made before the mayor of the said city for the time being, or in case of his neglect or absence then before the recorder of the said city and before no other person or persons whatsoever under the penalty of ten pounds, to be levied as in the said act is directed. And the said mayor and

¹ Passed May 5, 1722, Chapter 248.

² Passed May 10, 1729, Chapter 307.

³ Passed February 14, 1729-30, Chapter 314.

⁴ Passed September 2, 1738, Chapter 347.

recorder shall and are hereby enjoined to keep a register or registers of the names of such servants and by whom and to whom assigned and the term of years mentioned in the indenture with the date or time of assignment. And the said mayor shall at his going out of his mayoralty deliver the register or registers aforesaid to his successor, to be carefully kept and preserved, to the end that all persons concerned may readily have access to the same.

Passed February 3, 1742-43. See Appendix XV, Section I. Repealed by the King in Council December 17, 1746.

CHAPTER CCCLV.

AN ACT FOR THE MORE EASY AND SPEEDY RECOVERY OF SMALL DEBTS.

Whereas it is found by experience that a great number of the lawsuits which are commenced in this province are brought against the poorer sort of people for small sums of money, who are unable to bear the expenses arising by the common method of prosecution:

Therefore for remedying thereof:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all actions for debt or other demand for the value of forty shillings and upwards and not exceeding five pounds (except such actions as are hereinafter excepted) shall immediately after the publication of this act be and are hereby made cognizable before any justice of the peace of any of the counties in this province in the county in which the defendant shall be

or reside. And the said justices are hereby respectively empowered and required, upon complaint to either of them made, for any such debt or demand to issue a warrant in the nature of a summons or *capias* as the case may require, directed to the constable of the township or district where the defendant dwells or can be found, commanding him to bring or cause such defendant to appear before him at the time and in the manner following: (That is to say) in cases where such process shall be in the nature of a *capias* forthwith after the service thereof, but where a summons shall be issued then on some certain day therein to be expressed, not less than five nor exceeding eight days from the date of such process; and at the time appointed for the hearing of any such cause the said justice himself, or at the request of the parties by auditors or referees to that purpose by him appointed and approved of by the said parties, shall proceed to hear and examine the proofs and allegations of the plaintiff and defendants, and upon the return of such auditors or otherwise to give his judgment thereupon as the true merits and right of the cause shall appear to him, with such costs only as by the laws of this province are allowed in debts under forty shillings.

Provided always, That the process against a freeholder shall be by a summons only, and service shall be made thereof on the person or a copy thereof left at the house of the defendant in the presence of one or more of his family or neighbors at least four days before the time appointed for a hearing. And in case the defendant does not appear at the time appointed, then on oath or affirmation made by the constable that the said summons was duly served in manner aforesaid the justice who granted the same summons may either then or on such further day as he shall deem consistent with reason and the nature of the case to appoint and not otherwise proceed to hear and determine such cause or causes in the defendant's absence, and give judgment and award execution thereupon as if the defendant had been personally present.

[Section II.] And be it further enacted by the authority aforesaid, That after judgment given in any of the cases aforesaid the justice who pronounced the same shall grant execu-

tion thereupon, directed to the constable aforesaid, commanding him to levy the debt or damages and costs of the defendant's goods and chattels (who by virtue thereof shall within the space of ten days next following expose the same to sale by public vendue, returning the overplus if any be to the defendant), and for want of sufficient distress to take the body of such defendant into custody and him or her to carry and convey to the common gaol of the county; and the sheriff or keeper of such gaol is hereby required to receive the person or persons so taken in execution and him, her or them safely to keep until the sum recovered with costs be fully paid, and in default of such safe keeping to be liable to answer the damages to the party grieved in such manner as by law is provided in case of escapes. But in case no assets belonging to the defendant sufficient to pay the debt and costs can be found, it shall and may be lawful for the plaintiff to apply to the justice who pronounced the judgment for a transcript thereof, and on filing the same in the prothonotary's office of the court of common pleas in that county in which the recovery shall be had it shall and may be lawful for the plaintiff to levy the sum recovered with costs of suit on the lands and tenements of the defendant, either by *feri facias*, *venditioni exponas* or extent, as the case may require, in like manner as by law is provided in other cases.

Provided always, That no such execution shall be issued against any freeholder in less than the space of three months next after the entry of such judgment unless the plaintiff or somebody for him or her shall on oath or affirmation declare that he or she hath good reason to believe that the debt will by such delay be lost, for that at the end of the said term or before it (he or she believes) the defendant will not have sufficient assets in the county on which the said debt may be levied. And if any judgment to be given as aforesaid shall be against a person not a freeholder, such person shall have the execution against him or her respited for like term of three months on his or her entering into recognizance to the plaintiff with one sufficient security in the nature of special bail on condition to deliver the body of the defendant to the sheriff of the county at the expiration of the time so to be allowed or that the condem-

nation money shall then be paid, and in default of giving such security shall be committed to the common gaol of the county, there to remain until the debt and costs shall be paid or such defendant otherwise legally discharged.

Provided also, That where the plaintiff in any cause shall become nonsuit or judgment shall pass against him, then the justice is hereby required to assess the defendant his reasonable costs, to be levied in manner aforesaid.

Provided also, That it shall and may be lawful for the justices of the respective courts of common pleas to give such relief to any insolvent debtor or debtors prosecuted in pursuance of this act as they might have done by the laws now in force in case this act had not been made.

Provided also, That if any person or persons shall conceive him, her or themselves aggrieved by any such judgment so to be given (cases determined on the return of auditors or referees as aforesaid only excepted), it shall and may be lawful for such person or persons at any time within the space of six days next following the giving of such judgment but not after to appeal therefrom to the next court of common pleas to be holden for the county in which such suit shall be commenced, he, she or they first entering into recognizance with at least one sufficient security at least in double value of the debt or damages sued for and sufficient to answer all costs to prosecute the said appeal with effect and to abide the order of the said court, or in default thereof to be sent by *mittimus* to the sheriff of the county, by him to be kept until he, she or they shall give such security or be otherwise legally discharged.

[Section III.] And be it further enacted by the authority aforesaid, That the said justices shall cause fair entries to be made in books by them to be provided for that purpose of the names of the plaintiff and defendant in all such cases as may come before them, with the debt and costs adjudged and the time when the same judgment was given. And upon any appeal made from any such judgment the justice who pronounced the same shall send a transcript thereof to the prothonotary of the court of common pleas of the county in which such appeal is made on or before the first day of the term next following any such appeal; for which transcript or any other

obtained by virtue of this act the justice shall be allowed in the costs to be taxed eighteen pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That at the court to which any such appeal shall be made the person so appealing shall cause an entry of his suit to be made by the prothonotary of such court, and shall either have his appearance entered or give bail to the action, as the nature of the case may require, or on neglect thereof and application of the appellee to the court for that end, the appellant's default shall be recorded, the first judgment affirmed, with reasonable costs, and execution shall be issued out of the said court against the defendant's body, goods or chattels, as is usual in other cases. And in case the defendant shall appeal or give bail as aforesaid, the plaintiff or defendant in the appeal (as the case may require) shall file his or her declaration and the adverse party plead to issue in such time as shall be directed by the court, so always that the cause be tried by a jury of the country in the usual manner, either the court to which such appeal is made or the next term at furthest (unless the court on cause to them shown shall think fit to give the parties a further day), and as the verdict shall be rendered in any of the said causes, the court shall give judgment thereupon as the nature of the case may require with costs of suit.

Provided always, That if the parties appellant and appellee shall neglect or refuse to file his or her declaration or to plead to issue in such time as shall be directed by the court, a nonsuit or judgment by default may be entered for want thereof as usual.

Provided also, That the costs to be taxed in any such suit to the several officers and others concerned for the services by them respectively to be done shall be two-thirds parts only of the costs now usually taken in the said courts of common pleas.

Provided also, That none of the justices who by virtue of this act shall hear and determine any of causes aforesaid out of court shall afterwards sit on the hearing and determining the same cause on an appeal made to any of the courts of common pleas aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That if any person or persons whosoever shall com-

mence, sue or prosecute any suit or suits for any debts or demands made cognizable [as] aforesaid in other manner than is directed by this act, and shall obtain a verdict or judgment therein for debt or damages, which without costs of suit shall not amount to more than five pounds (not having caused an oath or affirmation to be made before the obtaining of the writ of summons or *capias* and filed the same in the prothonotary's office respectively that he, she or they so making oath or affirmation did truly believe the debt due or damage sustained exceeded the sum of five pounds), he, she or they so prosecuting shall not recover any costs in such suit, any law, usage or custom to the contrary notwithstanding.

Provided also, That this act nor anything herein contained shall be deemed, construed or understood to extend to actions of debt for rent, debt upon bonds for performance of covenants, to actions of covenant, to actions of replevin or upon any real contract, nor to actions of trespass on the case for trover and conversion or slander, nor to actions of trespass for assault and battery or imprisonment, nor to such actions where the title of lands shall anywise come in question.

Provided also, That this act shall continue in force for the space of three years and from thence to the end of the next session of assembly and no longer.

Passed February 3, 1742-43. See Appendix XV, Section I, and the Act of Assembly passed March 7, 1745-46, Chapter 365.

CHAPTER CCCLVI.

AN ACT FOR CONTINUING AND AMENDING THE ACT OF ASSEMBLY,
ENTITLED "A SUPPLEMENT TO THE ACT FOR ELECTING MEM-
BERS OF ASSEMBLY," &c.¹

Whereas notwithstanding the just and impartial method prescribed for electing of members of assembly by the charter of privileges granted by the Honorable William Penn, Esquire, late proprietor and governor-in-chief of the province of Penn-

¹ Passed May 19, 1739, Chapter 350.

sylvania and counties of Newcastle, Kent and Sussex on Delaware, to the inhabitants thereof, and of the several acts of [the] general assembly of the said province made in pursuance of the said charter for the more free, impartial and peaceable election of members to serve in the general assembly of the said province, and of sheriffs, coroners, commissioners, assessors, and of inspectors to assist in the said election, it was nevertheless found upon experience that the method formerly prescribed by the laws of this province for choosing inspectors to assist the sheriff and for receiving the poll or votes at the said elections did not answer the good purposes for which it was intended, but great numbers of disorderly persons, many of whom not being qualified to vote for members of assembly, &c., mixed themselves among the electors at the time of choosing inspectors and by their rude and disorderly behavior disturbed the electors and created strifes and quarrels, to the great danger and disquiet of the peaceable people there met together and in delay of the said election.

And whereas it often happened that the said inspectors were chosen most or all of them out of one part of the county, and by reason thereof could not be so well acquainted with the estates and circumstances of all the electors, which was the principal end of their first appointment.

For remedying of which inconveniencies an act of general assembly of this province was passed in the twelfth year of the present reign, entitled "A supplement to the act for electing members of assembly," which act with some amendments is thought necessary to be continued:

[Section I.] Therefore be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That the eight several districts into which the several counties within this province have been divided by the justices

of the said counties in pursuance of the act of assembly aforesaid shall and do remain, and they are hereby declared to be and remain firm, stable and unalterable during the continuance of this act, except in such cases as are hereinafter provided, for the purposes hereinafter mentioned. And that if any new township since the passing of the act aforesaid hath been or during the continuance of this act shall be erected out of several districts within any of the said counties, that it shall and may be lawful for the justices aforesaid respectively at their quarter-sessions of the peace next after the publication of this act and at the quarter-sessions of the peace next following the erecting such townships during the continuance of this act, and they are hereby enjoined and required, to annex such township or townships to the district or districts out of which the greatest part of the said townships respectively were taken, and to deliver to the sheriff of the respective counties an account to what district the same township or townships are annexed with the names of all the new erected townships, all which the said sheriff shall make known to the respective constables of the said townships with all expedition, thereby to enable them to discharge their several trusts in pursuance of the directions of this act.

[Section II.] And be it further enacted by the authority aforesaid, That the freeholders and others qualified to elect members of assembly in each township shall meet on the twenty-fifth day of September yearly, but if the same shall happen upon a first day of the week then upon the next day following, at some convenient place within their said respective townships to be appointed by the constable of the said township, or in case of his absence, neglect or refusal then at such convenient place within such township as the overseers of the poor shall appoint; and the said electors being qualified [to vote] for members of assembly shall between the hours of nine in the forenoon and three in the afternoon the same day, during all which time the election shall continue, in the presence of the constable and such two freeholders as he shall call to his assistance, or in his absence, &c., the overseer of the poor, proceed to elect by balloting one able and discreet free-

holder residing within the said township who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, the name of which person so nominated and chosen is to be taken down in writing by the constable or overseer of the poor as the case shall happen, with the name of the township for which he is chosen, and shall be delivered to the sheriff of the county at the place of election or to such person or persons as shall happen to be judges of the election before the hour of nine in the forenoon of the day whereupon the election of members of assembly shall happen, and the sheriff or other judge of the election having then and there received the names of all the persons chosen for the respective townships within his county or so many of them as shall be delivered to him in manner aforesaid, he shall call to his assistance at least four freeholders of the county and in their presence shall put all the names of the persons returned for each district into a separate box to be provided by him for that purpose, and shall likewise in the presence of the said freeholders call some indifferent person, who shall draw one name out of each box and deliver the same to the sheriff or other judge of the election, which being done, the persons whose names shall happen to be drawn and being present shall for that year be the inspectors of the election, and as such shall be published by the sheriff in the presence of the electors or so many of them as shall be present.

[Section III.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the inhabitants of the respective wards of the city of Philadelphia qualified to vote for members of assembly to meet together at the time hereinbefore mentioned for the meeting of the inhabitants of the respective townships in this province, and at some convenient place within their respective wards to be appointed by the constable of the ward to which he belongs, of which public notice shall be given in writing, &c., by affixing the same upon the court-house door in Philadelphia at least six days before the said twenty-fifth day of September, and there shall in the presence of the constable of the ward and such two freeholders of the said ward as he shall call to his assistance proceed to

choose by balloting one substantial freeholder of ability and integrity residing within the said ward, whose name when so chosen shall be taken in writing and certified by the constable and freeholders aforesaid to the sheriff of the county or other judge of the said election in the manner before directed for the constables of townships. And the sheriff shall put the names of all the persons so to him returned into a box and shall call some indifferent person, who shall draw four of the said names out of the said box and deliver the same to the sheriff, who shall read the same publicly in the presence of the electors then present. And the four persons whose names shall so happen to be drawn shall, together with the inspectors chosen out of the several districts of the said county, be the inspectors for that year for the election and as such shall be qualified in the manner before directed for other inspectors. And the other six persons whose names shall remain in the box shall be the inspectors for that year at the election of burgesses and assessors for the city of Philadelphia and shall be qualified in manner aforesaid.

But before they proceed to act in assisting the sheriff to receive the poll or votes of the said electors they shall be qualified by oath or affirmation by the sheriff of the proper county or other judges of the elections, who are hereby required and empowered to administer the same:

That they the said inspectors will duly attend the ensuing election during the continuance thereof, and will truly and faithfully assist the sheriff, coroners or other judges of the said election to prevent all frauds and deceits whatsoever of electors or others in carrying on the same and in causing the poll or votes at such election to be taken and cast up according to the direction of the before-recited act.

And the said inspectors shall and are hereby authorized to administer to every elector or person who presents his ticket an oath or affirmation in the words directed by the aforesaid act of assembly unless the qualification of such elector be generally well known or some one or more of the said inspectors shall and will openly declare to the rest that they know such elector to be qualified as in the aforesaid act of assembly is

required; and the votes or tickets of such as offer to poll and refuse to take the said oath or affirmation shall be openly rejected, and the votes or tickets of every person who takes the said oath or affirmation shall with the other lawful tickets or votes be put into the box, and no ticket so received shall be suppressed.

And to the end this act may be duly executed and the peace preserved:

[Section IV.] Be it therefore enacted by the authority aforesaid, That the constables of the respective townships within the several counties of this province, or in case of the death, neglect or absence of the said constables then the overseers of the poor of such township or one of them, shall at least six days before the said twenty-fifth day of September in every year give public notice in writing by affixing the same at the most public places in the respective townships of the place where the inhabitants of the township in which they live shall meet to elect a fit person according to the direction of this act; and that the said constable or in his absence the overseer of the poor as aforesaid shall there attend at the time appointed in this act; and such constable or overseer of the poor shall call to his assistance two substantial freeholders of the said township, being there present, who shall assist him in judging of the said election and in taking the votes, and who, together with himself, shall certify to the sheriff of the county or other judge of the election under their hands that such person was elected by a majority of lawful votes by the township to which he belongs, the name of which person so elected as aforesaid shall be delivered to the sheriff, &c., of the county to which they belong in the manner hereinbefore directed.

And if any constable or overseer of the poor, being the judge of such election as aforesaid, shall neglect to do the duty hereby enjoined him or shall willfully misbehave himself in the execution of his duty and being thereof legally convict, or if any of the persons so elected and returned for any township within this province in the manner before directed shall neglect or refuse to give his attendance at the time and place of electing members of assembly, every such person so offending

in any of the premises shall forfeit the sum of five pounds to any person who will sue for the same, to be recovered by action of debt in any court of record within this province with costs of suit. And if the person whose name shall happen to be drawn being called shall not appear, then the name of another person belonging to the same district shall be drawn and [he] shall be qualified and proceed to officiate as an inspector in the manner before directed in this act for inspectors.

[Section V.] And be it enacted by the authority aforesaid, That an act of assembly of this province, entitled "A supplementary act to the act for ascertaining the number of members of assembly, and to regulate elections,"¹ passed in the thirteenth year of the reign of King George the First, and every article and clause therein shall be and is hereby repealed.

Provided always, That nothing herein contained shall be deemed or taken to alter or make void the said-recited act of general assembly made in the fourth year of the reign of the late Queen Anne or anything therein contained, but that every clause, article and sentence therein, except what is hereby altered or supplied, shall be and remain in full force and virtue as the same was before the making of this act or the aforesaid supplementary act hereby repealed.

This act to continue for the space of three years and from thence to the [end of the next session of] assembly and no longer.

Passed February 3, 1742-43. See Appendix XV, Section I, and the Act of Assembly passed March 7, 1745-46, Chapter 364.

¹ Passed August 18, 1727, Chapter 296.

CHAPTER CCCLVII.

AN ACT FOR VESTING THE PROVINCE ISLAND AND THE BUILDINGS THEREON ERECTED AND TO BE ERECTED IN TRUSTEES FOR PROVIDING AN HOSPITAL FOR SUCH SICK PASSENGERS AS SHALL BE IMPORTED INTO THIS PROVINCE, AND TO PREVENT THE SPREADING OF INFECTIOUS DISTEMPERS.

Whereas by an act of general assembly of this province made in the twelfth year of the reign of King William the Third, entitled "An act to prevent sickly vessels coming into this government,"¹ it is among other things enacted, That from and after the publication thereof no unhealthy or sickly vessels coming from any unhealthy or sickly place whatsoever shall come nearer than one mile to any of the towns or ports of this province or territories without bills of health, nor shall presume to bring to shore such vessels nor to land such passengers or their goods at any the said ports or places without first obtaining license for the same in such manner as by the said act is directed; but no place[un]til of late having been provided for the reception of sick and distempered passengers, they have been heretofore clandestinely landed and lodged within the city of Philadelphia and elsewhere, by means whereof infectious distempers have spread within the province and the good ends intended by the said act in great measure frustrated:

For remedying whereof and making provision for the reception of sick passengers imported into this province by directions from the representatives of the freemen of the province, a purchase was made of all that island situate on the southerly side of the mouth of Schuylkill River in the county of Philadelphia, adjoining on Delaware River, heretofore known by the name of Fisher's Island, but hereafter to be called Province Island, containing about three hundred and forty-two acres of land and meadow with certain buildings thereon erected, and a conveyance thereof taken from Jonathan Paschal and Mary his wife,

¹ Passed November 27, 1700, Chapter 62.

late Mary Fisher, John Paschal and Henry Hodge, executors of the testament and last will of John Fisher, late proprietor and owner of the said island (who were duly authorized to make sale thereof), unto Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele, gentlemen; in trust nevertheless and subject to such uses as the representatives of the freemen of this province in assembly shall from time to time appoint; and under this further trust and confidence that they the said trustees and the survivors and survivor of them and the heirs of such survivor should convey the said island and appurtenances and transfer their said trust to such other person or persons and for such estate and estates as the representatives aforesaid in assembly should direct and appoint. Now to the intent that the said island may be effectually secured to the uses aforesaid, and that the inconveniencies which might happen from the importation of sick passengers within the province may for the future be prevented:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, Lieutenant-Governor with the royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the aforesaid Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele and the survivors and survivor of them do stand seized and they are hereby declared and enacted to stand seized of the Province Island aforesaid and the edifices and buildings thereon erected and to be erected with their and every of their appurtenances, to hold the said island and all and singular the premises to them the said Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele and the survivors and survivor of them and the heirs of such survivor forever; in trust nevertheless and for the uses, intents and purposes hereinafter specified and to and for no other use, intent or purpose whatsoever: (That is to say) that they the said trustees and the survivors and survivor of them do under-

take and continue their care and management of the said island with the appurtenances and receive the rents, issues and profits thereof, and duly to account for the same as hereinafter is directed until such time as the representatives of the freemen aforesaid in assembly shall appoint others to succeed them in the said trust; and on this further trust and confidence that they the said trustees and the survivors and survivor of them and the heirs of such survivor do and shall permit and suffer such person and persons so hereafter from time to time to be appointed to succeed them in the trust aforesaid to have the care and management of the said island and to receive and take the rents, issues and profits thereof, to be accounted for and applied as hereinafter is directed.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the aforesaid Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele, or the greater number of them during the continuance of their trust, and to and for such other person and persons as the representatives of the freemen aforesaid shall from time to time appoint in the stead and place of the said trustees before named, to grant, bargain and lease the island aforesaid or any part thereof for such term and terms of years not exceeding seven as to them shall seem expedient; so always as such tenant or tenants to whom the same shall be so leased be obliged to keep the said buildings thereon erected, banks, dams, fences and other the demised premises in repair during the respective terms for which the same shall be demised, and reserving always full liberty to place and continue thereon in the manner hereinafter directed any such sickly persons imported into this province as occasion shall require in pursuance of this act; and also reserving and excepting six acres, part of the said island, adjoining to the river Delaware most commodious for erecting a new hospital or pest house.

Provided always, That nothing herein contained shall affect, vacate or make void the contract made by the trustees before named with Jacob Mellor, but that the said contract and lease of the said Province Island shall be and remain as firm, valid:

and effectual to all intents, constructions and purposes as if this act had not been made.

[Section III.] And be it further enacted by the authority aforesaid, That the trustees of the said Province Island hereinbefore named and such others as shall at any time hereafter be appointed [in their or any of] their steads shall well and truly account with and pay to the treasurer of this province for the time being all such sum and sums of money as they or any of them already have received or at any time hereafter shall receive from the island aforesaid, to be disposed of in such manner and for such uses as the representatives of the freemen aforesaid in assembly shall from time to time direct and appoint. And if it shall at any time or times happen that the said trustees or any of them shall fail so to do, that then and so often and in every such case it shall and may be lawful for the treasurer aforesaid to commence, prosecute and maintain an action of debt against such delinquent or delinquents, and to recover the sum or sums so to become due in any court of record in the province with costs of suit.

[Section IV.] And be it further enacted by the authority aforesaid, That when any lease or leases shall at any time hereafter be made of the Province Island aforesaid or any part or parcel thereof, and the rent reserved for the same or any part thereof shall be in arrear and unpaid, that then and so often and in every such case and in all other cases wherein it shall be thought necessary that they the before-named trustees and the survivors and survivor of them and the heirs, executors and administrators of such survivor, shall permit and suffer all such suit and suits, action or actions, to be commenced and prosecuted in his, her or their name or names as the representatives aforesaid in assembly shall at any time or times hereafter direct or appoint; so always that they the said trustees and every of them and their heirs, executors and administrators and every of them be well and truly indemnified, saved and kept harmless of and from any costs, charges, troubles or molestations whatsoever which may arise or happen for or by reason of such suit or suits so to be commenced and prosecuted.

[Section V.] And be it further enacted by the authority

aforesaid, That when and so often as occasion shall require it shall and may be lawful for the lieutenant-governor or commander-in-chief for the time being or to and for any two justices of the peace of any of the counties within this province respectively to order and direct all sick and infectious persons at any time hereafter imported into this province to be transported to the Province Island aforesaid, there to remain in such places as shall be provided for them by the trustees aforesaid until it shall be judged by the physician attending them that they are free from any infectious distemper, their nursing, physic, maintenance and necessaries to be paid for by the importer, master or owner of the vessel in which such sick and distempered persons shall be imported, to be repaid to them out of the effects of the said passengers respectively if any they have.

And for the better securing the payment of the several sums of money which [it] shall become necessary to disburse in or about such sick and distempered persons as shall be imported as aforesaid:

[Section VI.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any one of the justices of the peace aforesaid on the application of any one of the said trustees, and they are hereby enjoined, as occasion shall require to send for the masters or owners of the vessels in which such sick and distempered persons shall at any time hereafter be imported or the importer of such sick person or persons, and oblige him, them or some or one of them to give bond in a competent sum of money, together with one or more sufficient sureties, to them the said trustees, with condition to be underwritten, to find and provide proper food, nursing, physic and other necessaries for the sick people aforesaid or to pay for the same.

And in case any master or importer shall refuse so to become bound, that then and in every such case it shall and may be lawful for the said justices respectively to commit the offender to prison, there to remain in close custody without bail or mainprize until he or they shall conform to the directions of this act.

[Section VII.] And be it enacted by the authority aforesaid,

That the trustees aforesaid shall keep or cause to be kept in a book to be provided for that purpose a fair entry of the names of every sick person that shall be transported to the said hospital or pest house, and also the names of the vessel, master or merchant who shall import them into this province.

[Section VIII.] And be it enacted by the authority aforesaid, That after any such distempered person hath recovered his or her health as aforesaid they or any of them shall not be discharged from the hospital or pest house but by a certificate under the hands of two or more of the said trustees certifying that the bearer (mentioning his name) having remained in the hospital for his health until they the said trustees judged him clear of any infectious distemper, they had discharged him from the said hospital or pest house.

And whereas the entertaining sick and distempered persons brought into this province has been attended with fatal consequences:

[Section IX.] Be it enacted by the authority aforesaid, That no housekeeper or other inhabitant of this province shall receive into his or their houses or outhouses or entertain any person or persons whatsoever knowingly that have been ordered by the governor for the time being or by any two justices of the peace of any of the counties within this province respectively to be transported to the hospital or pest house, pursuant to the directions of this act, unless such person hath been discharged from the said hospital or pest house and hath received from the trustees or any two of them as aforesaid a certificate certifying that the said person or persons is or are discharged from the said hospital as aforesaid on penalty of paying the sum of ten pounds for every offense, and also of maintaining and providing for the said sick [and] distempered person during his, her or their sickness, and in case of death burying them at their own expense; which said sum of ten pounds is hereby ordered to be paid to the overseers of the poor of the township where such delinquent may reside for the relief of the poor of such township, and to be recovered by the said overseers of the person so offending by a warrant from any magistrate in the same manner as debts under forty shillings are recovered; and in

case the person harboring or entertaining such sick and distempered person shall be poor or allege he or she is not of ability to pay the said fine of ten pounds, such indigent person shall be confined to the workhouse or prison for any time not exceeding one month, as the magistrate or magistrates of the respective county may direct.

Passed February 3, 1742-43. See Appendix XV, Section I, and the Acts of Assembly passed January 22, 1774, Chapter 691; February 28, 1780, Chapter 878. Repealed by the Act of Assembly passed April 22, 1794, Chapter 1759.

CHAPTER CCCLVIII.

AN ACT FOR THE MORE EASY RECOVERY OF LEGACIES WITHIN THIS PROVINCE.

Forasmuch as the laws of this province relating to the recovery of legacies are defective:

Therefore for remedying thereof:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act it shall and may be lawful for any person or persons to whom any legacy or bequest of any sum or sums of money or other goods or chattels have been or may be made by the last will and testament of any other person or persons legally made to commence, sue and prosecute an action for debt, detinue or account render as the case may require for such legacy after it becomes due in any of the county courts for holding of pleas in any of the counties within this province. And if it shall appear that the legacy or legacies is or are due and there be sufficient assets in the hands of

the executors or administrators with testaments annexed to discharge the [just] debts of the testator and the legacy or legacies bequeathed, the plaintiff or plaintiffs shall recover with costs of suit, any law, usage or custom to the contrary notwithstanding.

Provided always, That where it shall so happen that there are assets in the hands of any executors or administrators with testaments annexed to discharge all the debts of the testator with an overplus not sufficient to discharge all the legacies which may be given, then an abatement shall be made in proportion to the legacies so given unless it shall otherwise be provided by the will; and where any legatee or legatees are or may be under age at the time when such legacy or legacies shall become due, in such case such legatee or legatees shall and may maintain an action for their respective legacies by guardian or next friends as fully, amply and largely as by law they may do in any other actions whatsoever.

[Section II.] And be it further enacted by the authority aforesaid, That the respective courts where the said actions shall be commenced upon the plea of the want of assets to pay all the debts and legacies shall appoint auditors to examine the accounts of the executors and administrators with testaments annexed, who after full hearing of the parties at such times and places as by them the said auditors shall be appointed, with notice to the parties, shall report how the accounts of the executors or administrators do stand, what assets will remain after payment of all the debts and what part of the remainder is the proportion that ought to go towards paying of the plaintiff's legacies, for which proportion only unless it shall be otherwise provided by the will the court shall then award execution upon the judgment to be had in the said suit, which judgment shall remain a security for the payment of the remainder of the said legacies and costs when sufficient assets for the payment thereof come to the executor's or administrator's hands. And where any exceptions shall be taken by either of the parties to the report of the auditors, it shall and may be lawful for the court in which the action shall be depending on hearing of the parties to correct and amend any

mistakes or errors which may happen in the accounts so to be reported.

Provided always, That no such suit shall be maintained for any such legacy until reasonable demand made of the executor or executors or administrators with wills annexed who ought to pay the same, and an offer made of two sufficient sureties to the said executor or executors, administrator or administrators aforesaid, who, if they think proper to accept thereof, shall become bound to them the said executor or executors, administrator or administrators aforesaid, in double the sum of the legacy given, with condition underwritten that if any part or the whole thereof shall at any time after appear to be wanting to discharge any debt or debts, legacy or legacies, which the said executor or executors, administrator or administrators, shall not have other assets to pay, that then he the said legatee will return his said legacy or such part thereof as shall be necessary for the payment of the said debts or the payment of a proportional part of the said legacies. And if the said executors or administrators shall not think proper to accept of such bond, then the said legatees shall file the same with the clerk of the court before obtaining any process against the executor or executors, administrator or administrators, otherwise and in default thereof the process issued shall abate.

[Section III.] And be it further enacted by the authority aforesaid, That the justices of the courts aforesaid respectively upon consideration of the report of the accounts of the executors or administrators shall, according to justice and equity, either award no costs or costs out of the testator's estate; or in case the executors or administrators have been faulty in delaying to pay the legacy demanded or a proportional part thereof without sufficient excuse, then out of the proper estate of the executor or executors, administrator or administrators, anything herein contained to the contrary notwithstanding.

Provided also, That where there are or may be several legatees and a return of part of the said legacy sued for appears necessary, in such case each legatee shall only be compelled to return a proportional part of his legacy, so as to make up the whole sum wanting.

Provided also, That where no time in and by any last will and testament is limited for the payment of any such legacies, that then and in such case the said executors or administrators shall have the space of one year to discharge the same.

[Section IV.] And be it enacted by the authority aforesaid, That this act shall continue in force for the term of seven years and from thence to the end of the next session of assembly and no longer.

Passed February 3, 1742-43. See Appendix XV, Section I, and the Acts of Assembly passed January 27, 1749-50, Chapter 385; March 17, 1757, Chapter 419; September 20, 1765, Chapter 529.

CHAPTER CCCLIX.

AN ACT FOR NATURALIZING SUCH FOREIGN PROTESTANTS AS ARE SETTLED OR SHALL SETTLE WITHIN THIS PROVINCE, WHO, NOT BEING OF THE PEOPLE CALLED QUAKERS, DO CONSCIENTIOUSLY REFUSE THE TAKING OF ANY OATH.

Whereas by an act of Parliament passed in the thirteenth year of the reign of our present sovereign, King George the Second, entitled "An act for naturalizing such foreign Protestants and others therein mentioned as are settled or shall settle in any of His Majesty's colonies in America,"¹ it is amongst other things provided and enacted that from and after the first day of June in the year of our Lord one thousand seven hundred and forty all persons born out of the ligeance of His Majesty, his heirs or successors, who have inhabited and resided or shall inhabit and reside for the space of seven years or more in any of His Majesty's colonies in America, and shall not have been absent out of some of the said colonies for a longer space than two months at any one time during the said seven years, and shall take and subscribe the oaths and make, repeat and subscribe the declaration appointed by an act made in the first year of the reign of his late Majesty, King George the First, entitled "An act for the further security of His Majesty's person and

¹ 6 Ruffhead, 384.

government,"¹ &c., or being of the people called Quakers shall make and subscribe the declaration of fidelity and take and affirm the effect of the abjuration oath appointed and prescribed by an act made in the eighth year of his said late Majesty, entitled "An act for granting the people called Quakers such forms of affirmation or declaration as may remove the difficulties which many of them lie under,"² and also make and subscribe the profession of his Christian belief appointed and prescribed by an act made in the first year of the reign of their late Majesties, King William and Queen Mary, entitled "An act for exempting their Majesties' Protestant subjects from the penalties of certain laws,"³ before the chief judge or other judge of the colony wherein such persons respectively have so inhabited and resided or shall so inhabit and reside, shall be deemed, adjudged and taken to be His Majesty's natural-born subjects to all intents, constructions and purposes, as in and by the said act among other things fully appears.

And whereas by an act of assembly of this province made in the fourth year of the reign of the said late King George the First and approved of by the lords justices in council, entitled "An act for the advancement of justice," &c.,⁴ it was among other things enacted that the affirmation of such persons (whether of the people called Quakers or others) as conscientiously refuse to take an oath shall be accounted and deemed in the law to have the full effect of an oath in any case whatsoever in this province.

And whereas divers persons born out of the ligeance of our said present sovereign, King George the Second, from the lenity of our government, the benefit of our laws, the advantages of our trade and the security of our property, have been induced to settle within this colony, and although otherwise qualified according to the tenor of the act of Parliament aforesaid are not of the people called Quakers and do conscientiously refuse to take any oath and are thereby disabled from partaking of

¹ 5 Ruffhead, 30.

² 5 Ruffhead, 363.

³ 3 Ruffhead, 424.

⁴ Passed May 31, 1718, Chapter 236.

the benefit British subjects in this colony enjoy and by the act of Parliament aforesaid is intended:

Therefore for removing of these difficulties and those of others who may hereafter come amongst us in like circumstances:

[Section I.] Be it enacted by [the Honorable] George Thomas, Esquire, with the King's approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act all persons being Protestants born out of the ligeance of our present sovereign, King George the Second, his heirs or successors, who shall conscientiously refuse an oath and have inhabited and resided or shall inhabit and reside for the space of seven years or more within this province and shall not have been absent out of the same or some other of the colonies in the said act of Parliament mentioned for a longer space than two months at any one time during the said seven years, and shall make and subscribe the declaration of fidelity and the profession of his Christian belief, and take and affirm the effect of the abjuration oath before the chief judge or other judge of the supreme court of this province in such sort, manner and form as in and by the said act of Parliament is directed to be done and performed by the people called Quakers, shall be deemed, adjudged and taken to be the King's natural-born subjects of this province to all intents, constructions and purposes as if they and every of them had been or were born within this province, which said affirmations the said chief judge or other judge aforesaid is hereby enabled, empowered and required to administer and take. And when administered and taken an entry thereof shall be made in the said court and in the secretary's office and the names of the persons transmitted to the commissioners for trade and plantations yearly in like manner as by the act of Parliament hereinbefore recited is directed. And for administering the said

affirmations and making entries thereof the judges and secretary aforesaid respectively shall be entitled to the like fees and be under like penalties as in [and by] the said act of Parliament is directed and inflicted.

Passed February 3, 1742-43. See Appendix XV, Section I, and note to the Act of Assembly passed May 28, 1715, Chapter 204; and the Acts of Assembly passed March 21, 1772, Chapter 660; June 13, 1777, Chapter 756; October 12, 1777, Chapter 765; April 1, 1778, Chapter 796; September 10, 1778, Chapter 813; December 5, 1778, Chapter 822; October 1, 1779, Chapter 852; September 13, 1785, Chapter 1175, and the Laws of the United States regulating the subject.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1743, and continued by adjournments until the eleventh day of August, 1744, the following acts were passed:

CHAPTER CCCLX.

AN ACT FOR LAYING AN EXCISE ON WINE, RUM, BRANDY AND OTHER SPIRITS.

To the end further provision be made for the payment of the public debts and defraying the other necessary charges of government by laying an excise on rum, wine, brandy and other spirits retailed within this province:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, Lieutenant-Governor with the King's royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be throughout this province raised, levied, collected and paid for all rum, brandy and other spirits sold, drawn or bartered by any person or persons whatsoever by any quantity under seventy gallons, and for all wine sold, drawn or bartered under the quantity of one hogshead and to be delivered at one time and to one person at any time after the first day of June, one thousand seven hundred and forty-four, and during the space of five years next following and for so long after as until the end of the then next session of assembly the rate or sum of four pence per gallon and so proportionably for a greater or lesser quantity.

[Section II.] And be it further enacted by the authority aforesaid, That every retailer of all or any of the said liquors before he or they draw, sell or barter any of the said liquors

shall enter his or her name and place of abode with the collectors of the respective counties hereinafter appointed or their deputies in books to be by them kept for that purpose, and shall also take and have from the said collectors or their deputies respectively a permit for drawing or selling such liquors, for which entry and permit they shall pay one shilling and no more.

Provided always, That no such permit be granted to any person or persons to retail the liquors aforesaid the rates and duties whereof (by this act imposed) do not amount to the value of three pounds per annum and so in proportion for a lesser time, unless such retailer or retailers at the time of their obtaining such permit as aforesaid will undertake and give security (if thereunto required by the said collectors respectively) well and truly to pay so much to the said collectors as shall make up the rates and duties by this act imposed the sum of three pounds per annum and so proportionably for a longer or shorter time.

And all such retailers and every of them are hereby enjoined once in every three months or oftener if required to make true and particular entries with the collectors or their deputies aforesaid respectively upon oath or affirmation (which the said collectors or their deputies are hereby fully empowered to administer) of all wine, rum, brandy and other spirits which they or any of them shall have vended, bartered or retailed within that time, and so from time to time during the continuance of this act, and shall and are hereby required to account and pay to the said collectors or their deputies respectively once in every three months or oftener if required all such sum and sums of money as shall become due and payable by virtue of this act.

[Section III.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid shall on the entry of their names and places of abode with the officers aforesaid, give unto the said collectors or their deputies an exact and true account of all wine, rum, brandy and other spirits which shall be in their possession at the time of entry aforesaid and of whom purchased, and shall also from time to time after the first day of the month called June next, before they take into their houses, shops, cellars, vaults or

stores any cask or quantity of liquors liable to pay the duties imposed by this act, make entry of all and every such cask or quantity of liquors with the collectors aforesaid or their deputies respectively, with the marks, numbers and contents thereof and of whom purchased, and shall receive from him a certificate or duplicate of such entry if required by the party, for which entry and certificate the said retailer shall pay six pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That if any retailer shall presume to retail, draw, sell or barter any of the liquors aforesaid without having first entered his or her name and place of abode with the collectors or their deputies as this act directs, every such retailer shall forfeit and pay the sum of five pounds over and above the duties for all such liquors retailed by them as aforesaid, or if after such entry made any such retailer shall refuse or neglect to make true and particular entries every three months as directed by this act, or shall refuse or neglect to account with or pay to the said collectors or their deputies what shall appear to be due by this act upon the entries made by them as aforesaid once in every three months or oftener if thereunto required, every such retailer shall forfeit and pay for so neglecting or refusing to enter the liquors drawn every three months respectively and to account and pay as aforesaid, for the first offense the sum of forty shillings and for the second offense five pounds, and have their permit or license taken away, and are hereby declared incapable of retailing or selling any of the liquors aforesaid during the continuance of this act.

And if the person or persons liable to pay the duties arising upon selling or retailing of the liquors mentioned in this act shall neglect or refuse to pay the same in the manner and at the times herein limited and appointed by the space of ten days after the same ought to be paid, it shall and may be lawful for the said collectors respectively by virtue of a special warrant for that purpose signed and sealed by any one justice of the peace of the city or county where the offense is committed to empower the said collector to levy the same by distress and sale of the goods and chattels of the offender, rendering the

overplus (if any be) to the owner or owners after reasonable charges deducted.

[Section V.] And be it further enacted by the authority aforesaid, That if any person shall make short or fraudulent entries of the liquors in his or her possession as aforesaid or shall neglect or refuse to enter and take permits for such liquors as he or she shall receive into his or her house, shop, cellar, vault, store or other place after the first day of June next, all such liquors not entered as aforesaid shall be forfeited, and the collectors hereafter named or their deputies are hereby respectively empowered to enter at any time when they shall see convenient the house, cellar, vault, store or shop of any retailer, and to compare the liquors in such house, cellar, vault, shop or store with the entries made, and to seize and take away all such liquors as shall be found not truly entered as aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That the said collectors or their deputies may enter into any house, cellar, vault, store or other room in the daytime to search, examine and gauge the liquors of any person retailing with or without license or permit as often as he or they shall see fit, and upon their refusing him liberty so to do he may force and break open doors to gauge and examine the same, and in case of opposition if necessity requires shall take to his assistance the sheriff or one or more constables of the town or county respectively, who without any other warrant are hereby, under the penalty of five pounds for every refusal or neglect, required to be aiding and assisting to the said collectors and their deputies therein for the better and more effectual collecting the duties, penalties and forfeitures imposed by this act.

Provided always, That there shall be allowed by the collectors or their deputies unto the several retailers of the liquors aforesaid fifteen per cent for leakage and wastage; and if any cask should happen to start or burst, no duties shall be reckoned for so much of the said liquors as such retailer shall prove was lost thereby.

[Section VII.] And be it enacted by the authority aforesaid, That Rees Meredith, of Philadelphia, gentleman, shall be and

is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that William Atkinson, of Bucks county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that Jeremiah Starr, of Chester county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Chester; and that Arthur Patterson, of Lancaster county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Lancaster; which said several collectors are hereby severally empowered by themselves or their deputies to be by them duly constituted and for whom they shall be accountable, to demand, collect, receive and recover the excise appointed to be paid by this act of and from all and every person or persons (within their respective counties and places for which they are appointed) retailing or vending any of the liquors by this act liable to pay the duties aforesaid, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or that shall happen to arise or become due for anything done contrary to the true intent and meaning of this act.

And the said collectors are hereby required to keep true and fair accounts in writing of all their doings in the premises, which accounts they shall, when thereunto required, submit to the view and inspection of the provincial treasurer for the time being and thereupon settle and adjust the said accounts, and also lay the same before the assembly of this province when and so often as they shall be thereunto required.

And the said collectors and each of them shall once in three months or oftener if required pay unto the provincial treasurer all such sums of money as they shall receive by virtue of this act (to be disposed of as the assembly of this province shall think fit to direct), deducting out of the same ten per cent for all sums by them received in the counties of Bucks, Chester and Lancaster, and five per cent for the county and city of Philadelphia, for their trouble and care in collecting and paying the same, and deducting also one moiety of all the forfeitures by them recovered for any offense committed against this act after charges paid and satisfied; and shall be further allowed in the final adjusting of their accounts with the assembly of

this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

[Section VIII.] And be it further enacted by the authority aforesaid, That if the said collectors or any of them shall refuse or neglect to collect the said excise respectively or any part thereof and pay the same unto the provincial treasurer within the time limited in this act, every such collector so refusing or neglecting shall pay all the arrearages of such excise which he ought to have collected, which shall be levied by a warrant under the hand and seal of any two magistrates of the city of Philadelphia for the time being (whereof the mayor or recorder always to be one) or of any two magistrates of the respective counties where the offense is committed, directed to the sheriff of the county, who is hereby empowered and required to execute such warrant upon the goods and chattels of the collectors so offending; and in case goods and chattels sufficient to make satisfaction cannot be found, then to imprison such offender until payment be made; and the collector, being so distrained on and having made full satisfaction as aforesaid, is hereby empowered without any other warrant to distrain for his own use upon all such persons as shall refuse or neglect to pay the said arrearages.

And the said respective collectors before they enter upon the execution of their said respective offices are hereby required to give bonds with two sufficient sureties to the said treasurer for the time being in manner following: (That is to say) that [sic] the said Rees Meredith, collector of the excise, &c., for the city and county of Philadelphia, in the sum of five hundred pounds; the said William Atkinson, collector of the excise, &c., for the county of Bucks, in the sum of one hundred pounds; the said Jeremiah Starr, collector of the excise, &c., for the county of Chester, in the sum of two hundred pounds; the said Arthur Patterson, collector of the excise, &c., for the county of Lancaster, in the sum of one hundred pounds, for the faithful discharge of their respective duties and for their respective accounting and paying all such sums of money as they shall from time to time receive by virtue of this act.

And the said collectors are hereby required to give public

notice by printed advertisements fixed on convenient public places certifying the time of the commencement of this act and also the duties hereby imposed, with notice to the constables of their duty and full directions how and when entries are to be made in pursuance of this act.

[Section IX.] Provided always and be it further enacted, That in case the said Rees Meredith, William Atkinson, Jeremiah Starr and Arthur Patterson or either of them shall refuse to take upon him or them to be the collector or collectors of the said duties, or having taken the same upon him or them shall afterwards neglect or decline the same or misbehave him or themselves therein or die during the continuance of this act, [that] then and in any such case the provincial treasurer shall appoint another or others in the place or stead of such person or persons so refusing, neglecting, misbehaving or dying, who shall have the same power and authority and shall be liable to the same restrictions and penalties as by this act is given to the collectors herein named until others shall be appointed by the assembly.

[Section X.] And be it further enacted by the authority aforesaid, That no person or persons within this province shall during the continuance of this act retail less than one quart of rum, wine, brandy or other spirits, to be delivered at one time and to one person, unless such person or persons shall be regularly recommended to the governor for the time being and by him licensed according to the direction of an act of assembly of this province in that case made and provided. And if any person or persons shall presume during the continuance of this act to retail within this province less than one quart of wine, rum, brandy or other spirits to be delivered at one time and to one person without being legally recommended and licensed as aforesaid, he, she or they so offending shall forfeit and pay the sum of five pounds over and above the duties for all such liquors by them retailed as aforesaid or be committed to the workhouse or prison of the respective county where the offense shall be committed, there to be kept at hard labor for the space of five months, anything herein contained to the contrary notwithstanding.

[Section XI.] And be it further enacted by the authority

aforesaid, That all and every such person and persons who by virtue of licenses obtained from the governor shall be allowed to retail wine, rum, brandy or other spirits in less quantity than a quart as aforesaid, every such retailer or retailers who shall apply him, her or themselves to the justices of the court of quarter-sessions of the counties to which he, she or they respectively do belong for a recommendation to the governor to renew their licenses for keeping a public house or houses and retailing as aforesaid, every such person and persons shall on every such application and before any recommendation obtained produce certificates from the collectors of the said counties respectively to which he, she or they belong of having discharged all arrearages of money due to the said collectors or any of them for the rates and duties imposed, or otherwise the said justices are hereby enjoined and required not to recommend such person or persons for the purpose aforesaid; and every such person or persons are hereby declared incapable of retailing any of the liquors aforesaid in less quantities than one quart as aforesaid, and in case any person or persons shall notwithstanding retail in less quantities than one quart as aforesaid, he, she or they so offending shall be liable to such and the same penalties and forfeitures as by this act is imposed on other persons.

And for the better discovery of frauds and abuses:

[Section XII.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this province upon application made by any one of the said collectors or other person to summon any person or persons to appear before such justice at such time and place as he shall appoint to give evidence upon oath or affirmation for discovery of frauds and abuses committed against this act. And if any person or persons summoned as aforesaid shall neglect or refuse to appear and give evidence as aforesaid, he, she or they so offending shall for every such offense be fined by the justice that issued out the summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section XIII.] And be it further enacted by the authority aforesaid, That all the forfeitures and offenses made, done and committed against this act or any clause or article therein con-

tained shall be heard, adjudged and determined by such person or persons and in such manner and form as herein is directed: (That is to say) all such forfeitures and offenses made and committed within the city of Philadelphia shall be heard, adjudged and determined by any two or more of the aldermen of the said city, and all such forfeitures and offenses made and committed within any of the counties of this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeitures shall be made or offense committed.

And if the party finds him or herself aggrieved by the judgment given by the said aldermen or justices, he or she may appeal to the justices of the peace of the next court of general quarter-sessions of the peace to be held for the respective city or county where the judgment shall be given, which court is hereby empowered and authorized to hear and determine the same and whose judgment therein shall be final.

Provided always, That no alderman or justice who shall sit on the first hearing of any such cause shall sit to hear and determine in the same cause in case any appeal shall happen to be made therein.

And the said aldermen and justices of the said city and counties of this province are hereby authorized and strictly enjoined and required upon any complaint or information exhibited and brought of any such forfeiture made and offense committed contrary to this act to summon the party accused, and upon his or her appearance or contempt to proceed to examination of the matters of fact, and upon due proof thereof, either by confession of the party or by the oath or affirmation of one or more credible witnesses, to give judgment or sentence as before is directed and to award and issue out warrants under their hands and seals for the levying of such forfeitures, penalties and fines as by this act is imposed for any such offenses committed upon the goods and chattels of such offender, and to cause sale to be made of such goods and chattels (if they are not redeemed within five days), rendering to the parties the overplus if any be, the charges of distress and sale being first.

deducted, and for want of sufficient distress to imprison the party offending until satisfaction be made.

[Section XIV.] And be it further enacted by the authority aforesaid, That if the said magistrate, officer or any sheriff or constable shall be sued and prosecuted for anything done by them in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for his or their justification; and in case a verdict shall be given against the prosecutor or he shall become nonsuit or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in other cases.

[Section XV.] And be it further enacted by the authority aforesaid, That all and every the constables of the respective townships or districts in this province shall and are hereby required under the penalty of the forfeiture of twenty shillings for every refusal or neglect to return on oath or affirmation unto the court of quarter-sessions in their respective counties the names and places of abode of all persons in their several townships or districts retailing or vending any liquors liable to pay the duties imposed by this act, and that the collector of such respective county may and shall have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising upon this act.

And whereas it has been the practice of divers persons who were not retailers of the said liquors formerly to draw off certain quantities of wine, rum and other spirits and distribute the same amongst their neighbors on purpose to elude the payment of excise:

For prevention whereof for the future:

[Section XVI.] It is hereby enacted and declared, That the drawing, distributing or sharing of any rum, wine, brandy or other spirits out of any cask or casks whatsoever into any quantity or quantities less than seventy gallons each under pretense of making it convenient for carriage or otherwise shall be deemed and taken to be retailing within the meaning of this act.

Provided always nevertheless, It shall and may be lawful to and for any distiller in this province to sell to any retailer or

retailers any quantity of spirits of his own distilling not less than five gallons to one person and to be delivered at one time, making entry thereof within the space of one month with the collector of the county where he resides, with the retailer's name and place of abode, to whom sold and number of gallons, and also at the same time taking an oath or affirmation that the same spirits by him sold as aforesaid were *bona fide* distilled in this province and, as he is informed and verily believes, from materials of the growth or produce of the said province, and are clear of all mixtures of rum or any other foreign spirits whatsoever (and the said retailer shall account for and pay the duty thereof to the said collector, pursuant to the directions of this act), anything herein contained to the contrary in anywise notwithstanding.

Provided also, That the collectors of the excise aforesaid or any of them nor their or any of their deputies nor any other person or persons to be appointed in their or any of their places or stead shall during the continuance of this act vend, barter, sell, exchange or trade in any of the liquors aforesaid made excisable by this act under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person who will sue for the same to effect, one-half thereof to the use of the person so suing, the other half thereof to be paid in to the provincial treasurer aforesaid towards the support of the government of this province. And the person or persons duly convicted of any such offense or offenses against this act is and are hereby disabled from acting any longer in their respective offices; and the treasurer aforesaid is hereby authorized and required to name another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the collectors named in this act until others are appointed by the general assembly of this province.

[Section XVII.] And be it further enacted by the authority aforesaid, That Michael Lightfoot, of the city and county of Philadelphia, shall be and is hereby appointed provincial treasurer for receiving of all the moneys to be raised by this act and of all fines and forfeitures arising thereby, and for doing,

executing and performing all other acts, matters and things whatsoever which to the said provincial treasurer by any act or acts of assembly of this province doth or hereafter shall of right belong or appertain as fully to all intents, constructions and purposes as any provincial treasurer of this province at any time heretofore might have done or suffered; the said treasurer before his entrance upon the execution of the said office first becoming bound to the governor with one or more sureties in an obligation of one thousand pounds conditioned for the true observation of this act and the duty which to the said office doth appertain. And in case of the death or removal of the said treasurer it shall and may be lawful for the assembly to appoint some other fit person to supply his place, who shall give security as aforesaid.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the said provincial treasurer for all the moneys which shall come to his hands in pursuance of his office aforesaid by virtue of this act or otherwise shall be allowed commissions for the same at the rate of five per hundred and no more.

And whereas there are sundry sums of money which became due by virtue of the former act of excise still outstanding and not received by the former collectors:

[Section XIX.] Be it enacted by the authority aforesaid, That the provincial treasurer for the time being shall deliver unto the officers appointed by this act a true list of all such outstanding sums of money as became due upon the former act of excise, together with the names and places of abode of the person or persons from whom the same are due; and the said collectors are hereby authorized and empowered to demand, recover and receive the same in the same manner as the excise arising upon this act is directed to be received and recovered, and shall upon receipt thereof pay the same to the provincial treasurer for the uses and in the manner as the other moneys are directed to be paid by this act.

[Section XX.] And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of June, which will be in the year one thousand seven hun-

dred and forty-nine, and from thence until the end of the next sessions of assembly and no longer.

Passed May 26, 1744. Never submitted to the consideration of the Crown. See the Acts of Assembly passed June 24, 1746, Chapter 370; September 21, 1756, Chapter 412.

CHAPTER CCCLXI.

AN ACT FOR THE NEW APPOINTMENT OF TRUSTEES OF THE GENERAL LOAN OFFICE OF PENNSYLVANIA, AND FOR MAKING CURRENT TEN THOUSAND POUNDS IN NEW BILLS OF CREDIT TO EXCHANGE SUCH OF THOSE NOW BY LAW CURRENT AS ARE TORN AND DEFACED.

Whereas by an act of assembly of this province, entitled "An act for reprinting, exchanging and re-emitting all the bills of credit of this province,"¹ &c., passed in the year one thousand seven hundred and thirty-nine, John Kinsey, Jonathan Robeson, Joseph Kirkbride, Caleb Cowpland and John Wright were appointed trustees of the said general loan office, with full power and authority to execute the trust in them reposed by the said act, and also to do, perform and suffer all other matters and things whatsoever as fully to all intents and purposes as any former trustees of the said office by virtue of former acts of assembly might have done or suffered.

And whereas in and by the said act it is further provided that the said trustees should no longer continue in the exercise of the said office than four years and from thence to the end of the then next session of assembly.

And whereas disputes have arisen when the time of the said trustees of the general loan office will expire:

Therefore to the end those doubts may be removed and a new appointment made of trustees to execute the trust aforesaid:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province

¹ Passed May 19, 1739, Chapter 353.

of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the first day of the month called August in the year of our Lord one thousand seven hundred and forty-four the said Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland and every of them be and hereby [are] discharged from executing the office of trustees of the general loan office aforesaid. And John Kinsey, Thomas Leech, John Watson, Thomas Chandler and John Wright are hereby nominated and appointed trustees of the said general loan office of the province of Pennsylvania to succeed the trustees first named in the said trust, and on the first day of the month aforesaid to enter upon the execution of the said trust to which they are hereby appointed and to hold and order the said general loan office and to receive and issue bills of credit of this province, and to do, execute and perform all and singular other the matters and things whatsoever enjoined and required or that shall be enjoined and required to be done by the trustees of the said general loan office in the said office by any acts of assembly now made or [that] shall be made during their continuance in the said trust or until they shall be legally removed therefrom as fully and amply to all intents and purposes as the present or any former trustees of the said general loan office of Pennsylvania now can or might have done by any act of assembly in which the trustees in the said acts named were appointed, and as fully as if the said John Kinsey, Thomas Leech, John Watson, Thomas Chandler and John Wright were named and appointed trustees in the bodies of the said acts of assembly; each of them the said trustees before they enter upon the execution of their trust first giving bond to the provincial treasurer for the time being in the sum of three thousand pounds, with the condition for the due execution of the trust and performance of all things required of them as well by the act, entitled "An act for reprinting, exchanging and re-emitting all the bills of credit of this province," &c., as by this present act, and also taking an oath or affirmation as in and by the said act is enjoined and required.

[Section II.] And be it further enacted by the authority aforesaid, That if any of the trustees of the general loan office hereinbefore named shall happen to die or be removed for misfeasance, some other fit person or persons shall be appointed in the place and places of such trustee or trustees by the assembly.

[Section III.] Provided always, and it is hereby further enacted, That none of the persons hereinbefore named shall longer continue in the exercise of the said office than the space of four years from the time of the commencement of their trust as aforesaid and from thence until a new nomination and appointment of trustees of the said general loan office shall be made as in and by the last-mentioned act of assembly is directed.

[Section IV.] And be it enacted by the authority aforesaid, That the said John Kinsey, Thomas Leech, John Watson, Thomas Chandler and John Wright are hereby authorized and required from and immediately after the commencement of their trust to demand, take and receive of the said Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland, their heirs, executors and administrators and every of them, and of every other person and persons concerned, all the mortgage-deeds, bonds and warrants of attorney, together with the books of records and enrollments of the same, and all deeds, evidences and writings relating to or concerning the right or title of any lands, tenements, hereditaments or other things taken or received by the trustees at any time heretofore named or appointed into the said general loan office for securing the payment of any sum or sums of money and all the bills of credit remaining in their or any of their hands belonging to the said loan office.

[Section V.] And be it further enacted by the authority aforesaid, That all the aforesaid mortgages and enrollments of the same or other deeds, evidences and writings relating to or concerning any mortgage or other security for payment of any money or bills of credit into the said loan office of the province of Pennsylvania, and all plate, with the said bills of credit now remaining in their or any of their hands, shall im-

mediately from and after the first day of the month aforesaid be delivered with all convenient speed to the trustees of the said general loan office in this act named and appointed, who are hereby empowered to account with and receive the same from the said Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland or any other person or persons whatsoever having the same in their hands or possession, and to lay the several accounts before the assembly of this province when thereunto required, and that a receipt of the trustees by this act appointed or any three of them shall be sufficient to discharge them the said Jonathan Robeson, Joseph Kirkbride and Caleb Cowpland, their heirs, executors and administrators, for such bills of credit, plate, mortgage-deeds, enrollments of the same and other writings so to be delivered.

Provided always, That it shall and may be lawful for the said trustees by this act removed or any of them at any seasonable time or times hereafter to have recourse to and inspection of all the mortgage-deeds or enrollments of the same with their endorsements, in order to enable them to account with the assembly of this province or their committees or any other persons to be appointed by the assembly for that purpose if any such account be required.

[Section VI.] And be it further enacted by the authority aforesaid, That the trustees appointed by this act are hereby empowered to choose and employ a fit and able person to be clerk, for whom they shall be answerable, to serve them in the said office during their pleasure under the like qualifications enjoined to be taken by the clerk in the said former acts of assembly before he enter on his office, who shall deliver to the committees of assembly when thereunto required upon oath or affirmation a true list of all mortgage-deeds taken according to the directions of the aforesaid acts of assembly; and the [said] trustees shall themselves keep fair and exact books, tablewise, of all the emissions of bills of credit by them let upon loan or otherwise issued out of the said office and of the receipts of the principal sums, quotas and interests arising thereupon, and of all the moneys to them paid in upon all and every the acts of assembly, to which books of accounts the

committees of assembly hereafter [to be] appointed to audit the said trustees' accounts shall have free access at all seasonable times, and shall further have delivered to them for the use of the assembly a fair duplicate of the said tables by the aforesaid trustees, with a list of the receipts of all moneys paid in with the days of payment; and likewise have access to the mortgage-deeds and enrollments of the same with the bonds given by the mortgagors to the end they may be satisfied that there is due credit given to the said province for the money or bills of credit paid in, and that the same have been let [out] without delay to such persons as shall have occasion to borrow, and that the said committees may from time to time be acquainted with the true state of the whole transactions and affairs belonging to the loan office aforesaid. And such of the [said] trustees herein named and appointed as shall undertake and execute the said trust shall each of them have and receive like yearly salaries during the continuance of their respective trusts as are allowed and is directed to be paid by the aforesaid act, entitled "An act for reprinting, exchanging and re-emitting all the bills of credit of this province," &c., hereinbefore mentioned to the trustees therein nominated.

And forasmuch as divers of the bills of credit made and issued in pursuance of the act of assembly last mentioned, especially of the smaller denominations, are so torn and defaced as [to] render them unfit for passing in payments and no provision is made by law for exchanging them, therefore:

[Section VII.] Be it further enacted by the authority aforesaid, That indented bills of credit to the value of ten thousand pounds current money of America, according to an act of Parliament made in the sixth year of the reign of the late Queen Anne, shall be prepared and printed on good paper within the space of three months next ensuing the publication of this act under the care and direction of the trustees of the general loan office hereinbefore appointed and at the charge of the province, to be defrayed out of the interest-money arising or to arise upon the loan of any bills of credit formerly emitted or to be emitted by any trustees of the said general loan office.

[Section VIII.] And be it further enacted by the authority aforesaid, That the said bills so to be printed shall be of the several and respective denominations following and no other, viz.:

Twenty thousand of the same bills, the sum of one shilling in each of them.

Twenty thousand of the same bills, the sum of one shilling and six pence in each of them.

Twenty thousand of the same bills, the sum of two shillings in each of them.

Twenty thousand of the same bills, the sum of two shillings and six pence in each of them.

Twelve thousand of the same bills, the sum of five shillings in each of them.

And the said bills shall be of the same tenor and form as [the] bills by lay now current of like denominations respectively are directed and appointed to be by the act hereinbefore recited, the difference of date and names of the signers, with such other devices as well for preventing of counterfeits as to distinguish their several denominations, always excepted.

And the said trustees shall use the best of their care, attention and diligence during the printing of the said bills that the number and amount thereof according to their respective denominations be not exceeded nor any clandestine or fraudulent practice used by the said printer, his servants or persons concerned therein.

[Section IX.] And be it further enacted by the authority aforesaid, That all and every of the said bills shall be signed by the persons following: (That is to say) James Morris, Abraham Chapman and Peter Lloyd, who are hereby nominated and appointed to be signers of the said bills, and shall before they presume to receive or sign any of the said bills of credit take an affirmation to the effect following, to wit:

That they shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the directions of this act and no more, and the same so signed and numbered will deliver or cause to be delivered unto

the trustees of the general loan office of the province of Pennsylvania, pursuant to the directions of this act.

And for avoiding the danger of embezzlement or misapplication of any of the said bills of credit:

[Section X.] It is hereby further enacted by the authority aforesaid, That the said trustees after the said bills are printed shall deliver them to the said signers to be signed and numbered by parcels, for which the said signers or some of them shall give their receipt: (That is to say) one thousand pounds value in the said bills at one time, and so from time to time till all the said bills of credit shall be numbered and signed, yet so as that the said trustees shall not deliver any other of the said bills to the signers aforesaid whilst the sum in their custody unexchanged exceeds one thousand pounds, of all which bills of credit so delivered to be signed by the trustees true accounts shall be kept by the signers, who upon their redelivery of each or any parcel of the said bills of credit by them signed and numbered to the said trustees shall take their receipts, to charge them before any committee of assembly to be appointed for that purpose.

And the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them signed and numbered within ten days after the delivery thereof to the said trustees, to be by them paid out of the interest-money in the said trustees' hands.

And if any of the persons before named to be signers shall happen to die, refuse to sign or be rendered incapable of doing his or their duty by this act required, the assembly for the time being shall appoint some other person or persons in his or their stead from time to time until all the bills hereby directed to be made are wholly signed and numbered as aforesaid.

[Section XI.] And be it further enacted by the authority aforesaid, That the said trustees after the receipt of any parcel of the said new bills signed and numbered as aforesaid or some fit person for whom they shall be accountable shall give due attendance at their office on the third day of the second week in the months commonly called April, June, August, October, December and February in every year during their continuance

in the said trust, and shall deliver out the same new bills unto such persons as shall require them in exchange for the torn, ragged and defaced bills of the same value hereinbefore mentioned; which said old bills so received shall be kept by the said trustees for their vouchers to discharge them of so much of the [afore]said ten thousand pounds value in new bills as they shall have given in exchange as aforesaid before any committee of assembly to be appointed for that purpose, who, having duly examined the said old bills so received in exchange, shall cause the same to be burnt and destroyed in their presence; and the said trustees shall be paid for exchanging each thousand pounds of the torn and defaced bills aforesaid fifty-five shillings, and so in proportion for any lesser quantity, to be defrayed out of the interest-money aforesaid.

[Section XII.] And be it further enacted by the authority aforesaid, That the new bills hereby directed to be made and signed and issued in pursuance of this act shall in all respects have the same currency and be of the same effect in law and equity in respect to payments, tenders and the discharge of all [manner of debts] rents, sum and sums of money due, payable or accruing upon or by reason of any mortgage, bill, bond, specialty, note, account, promise or other contract whatsoever, and to all intents, constructions and purposes as the bills of credit formerly emitted and now by law current within this province. And that any person or persons who shall presume to forge or counterfeit any of the bills of credit to be made in pursuance of this act, or shall be aiding and assisting therein, or shall enlarge the value of the sum expressed in any of the said bills, or shall utter or cause to be uttered or offered in payment any such bill or bills knowing the same to be forged or counterfeited or [the] sum or value therein altered, with an intent to defraud any other person, he, she or they so offending and being thereof legally convicted shall for every such offense incur and suffer the same pains and penalties respectively as forgers or counterfeiters of bills are by former acts of assembly directed to incur and suffer, and the discoverer or prosecutor by virtue of this present act shall be entitled to like

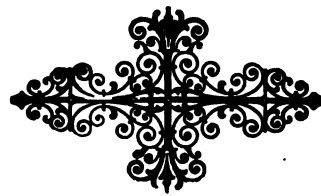
rewards as by the act hereinbefore mentioned is directed in respect to the bills now current.

[Section XIII.] And be it further enacted by the authority aforesaid, That this act shall be taken and allowed in all courts and places within this province as a public act; and all judges, justices and other persons concerned are hereby required to take notice thereof as such without pleading the same specially.

Passed May 26, 1744. See Volume V, Appendix XVI, Section I, and notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; August 15, 1730, Chapter 317, and the Act of Assembly passed February 4, 1748-49, Chapter 373.



APPENDICES.



APPENDIX VII.

Papers relating to the acts passed by the twenty-fifth assembly under the Charter of 1700, from October 14, 1725, to August 6, 1726.

SECTION I.

1. Board of Trade Journal, April 25, 1727.
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APPENDIX VIII.

Papers relating to an act passed by the twenty-sixth assembly, under the Charter of 1700, on August 25, 1727.

SECTION I.

1. Order in Council, August 12, 1731.
2. Letter from Mr. Fitzwilliam, December 26, 1727.
3. Board of Trade Journal, May 7, 1728.
4. Board of Trade Journal, May 16, 1728.
5. Board of Trade Journal, April 15, 1730.
6. Petition of John Moore, 1730.
7. Answer of Springett Penn *et al.* to the above petition, May 12, 1730.
8. Order of the committee of the council for hearing appeals, &c., from the plantations, May 14, 1730.
9. Board of Trade Journal, June 19, 1730.
10. Opinion of Francis Fane, November 3, 1730.
11. Board of Trade Journal, November 10, 1730.
12. Board of Trade Journal, December 8, 1730.
13. Board of Trade Journal, March 4, 1730-31.
14. Board of Trade Journal, March 4, 1731-31.
15. Board of Trade Journal, June 15, 1731.

16. Board of Trade Journal, June 22, 1731.
17. Board of Trade Journal, June 23, 1731.
18. Board of Trade Journal, June 24, 1731.
19. Representation of the Board of Trade, June 24, 1731.
20. Board of Trade Journal, September 21, 1731.

APPENDIX VII.

SECTION I.

1.

Whitehall, Tuesday, 25th April, 1727.

At a meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Earl of Westmoreland,	Mr. Docminique,
Mr. Chetwynd,	Mr. Pelham,
Mr. Plummer.	

* * * * *

A representation¹ from the assembly of Pennsylvania, praying the confirmation of an act passed there in 1725, entitled "An act for the re-emitting and continuing the currency of such bills of credit of this province as by former acts are directed to be sunk and destroyed," and for the striking and making current ten thousand pounds in new bills to supply those that are torn and defaced, was read, and ordered that the said act be sent to Mr. Fane for his opinion in point of law upon the same.

Board of Trade Journals, Vol. XXXVII, f. 96.

¹ See Votes, III, 22. Mr. Fane's report cannot be found in the Public Record Office, London. Perhaps he made none. No further action seems to have been taken in regard to this act.

APPENDIX VIII.

SECTION I.

1.

At the Court at Hampton Court, the 12th day of August, 1731.

Present :

The King's Most Excellent Majesty in Council.

Whereas His Majesty was pleased by his order in council of the 19th of November, 1729, to refer unto the consideration of the Lords of the committee of the privy council a petition of John Moore, Esquire, collector of His Majesty's customs in the province of Pennsylvania, complaining of an act passed in the assembly of that province on the 25th of August, 1727, entitled "An act for the establishing of courts of judicature in this province," and humbly praying for the reasons therein contained that the said act may be repealed. And whereas the said Lords of the committee have this day reported that they have received the opinion of the Lords Commissioners for Trade and Plantations upon the said act, and have heard counsel for the petitioner, as likewise counsel for the heirs of William Penn, Esquire, late proprietor of Pennsylvania, in support of the said act; and that they are humbly of opinion this act may prove highly prejudicial to His Majesty's revenue in Pennsylvania and be an encouragement to illegal trade in that province by putting the officers of the customs under great difficulties in prosecutions upon seizures made of contraband goods or other merchandise imported contrary to law, and that therefore it may be advisable for His Majesty to signify his disallowance thereof. His Majesty in council this day took the said report into his royal consideration and was pleased to approve thereof, and pursuant to the powers reserved in the Charter of Propriety granted to William Penn, Esquire, His Majesty is pleased to declare his disallowance of the said act, and according to His Majesty's pleasure thereupon expressed,

the said act is hereby repealed, declared void and of none effect. Whereof the deputy-governor, council and assembly of the said province and all others whom it may concern are to take notice and govern themselves accordingly.

(A true copy.)

JAMES VERNON.

Board of Trade Proprieties, Vol. XIII, S. 7.

2

Surveyor-General of the Customs to Lords of Trade and Plantations.

Virginia, December 26, 1727.

My Lords:

The duty of my office as surveyor-general of His Majesty's customs in the southern district of America will, I hope, plead my excuse for the trouble I am like to give your Lordships when anything occurs to me wherein the acts of trade are infringed or made ineffectual and to which your Lordships' board can most properly apply a remedy. Of this kind is the case I now beg leave to represent to your Lordships, and 'tis thus:

About the month of October, 1724, there arrived at Philadelphia a ship called the "Fame," owned by one Pillins, a merchant in Rotterdam. This ship, under color of transporting from thence divers Palatine families to settle in Pennsylvania, imported directly from Holland a large quantity of East India goods and divers European manufactures and commodities to the value of twenty thousand pounds, as it was generally computed. The collector of Philadelphia, having notice of this illegal importation, went on board, searched the ship, and finding therein this great quantity of prohibited goods, made a seizure of the ship and cargo and left six waiters on board to take care of the same; but the following night sixty or seventy persons in disguise forcibly entered on board the ship, cut her away from the wharf where she was moored and towed her down the river, about five miles below the town, where they immediately landed the greater part of the prohibited goods. The waiters being terrified by the menaces of these rioters, four of them leaped overboard and the other two were

kept so closely confined that they could give no account to what places these goods were carried, and in a few days thereafter Sir William Keith, the then governor of Pennsylvania, went on board the same ship and made a new pretended seizure, and immediately caused a creature of his to file an information against the ship and some small part of the goods in the county court of Philadelphia, where the master appeared and confessed the information, and thereupon execution was immediately taken out and the ship and all the goods that could be found sold at public auction for little more than six hundred pounds sterling. I shall not trouble your Lordships with a recital of the endeavors used by the collector to prevent this collusive trial and to assert his rights in behalf of the King and himself to a much greater sum forfeited by this illegal importation; 'tis sufficient to inform your Lordships that whatever he offered to that superior court was immediately overruled, upon which he appealed to His Majesty in council, and upon a hearing before their excellencies the Lords Justices, it was directed that the collector should be at liberty to prosecute in the proper court of Pennsylvania, upon the seizure of the said ship and cargo, and in such manner as he should be advised by his counsel, and accordingly having consulted the attorney and solicitor-general they advised him to bring suit in the supreme court of Pennsylvania, which by an act passed in the eighth year of his late Majesty, entitled "An act for establishing courts of judicature in this province" (copy whereof I here enclose), was declared to have like power and jurisdiction within Pennsylvania as the courts of King's Bench, common pleas or exchequer at Westminster have and exercise. In pursuance of this advice the collector prosecuted his seizure in that court and obtained a condemnation, and being well informed that one Lawrence, an inhabitant of Philadelphia, had been principally concerned in the running and concealing the prohibited goods imported in the forementioned ship brought suit against him in the same supreme court of Pennsylvania, to which he appeared and put in bail; but while this suit was depending the assembly of Pennsylvania (which

met last August), taking notice thereof, passed a vote that the supreme court of that province ought not to take cognizance of any suit or information for the breach of a penal law, being as they pretended only constituted for reforming errors in the inferior jurisdictions within that province; but that vote not being sufficient to deter the judges of the supreme court from doing what they took to be their duty in this case, the said assembly proceeded to frame a bill under the same title as the former, whereby all the jurisdiction of the supreme court to hear and determine suits and informations for the breach of any penal statute in the first instance is entirely taken away, and by means of this act, made *ex post facto*, the collector's suit against Lawrence became discontinued; and he being gone out of the country in the meantime and his bail discharged, the collector has lost the effect of his suit, is obliged to pay the costs and is never like to meet with another opportunity to obtain a remedy against one who was so notoriously guilty of rescuing by force the ship "Fame" out of the collector's hands and running and concealing the prohibited goods imported in her.

While this bill was depending in the assembly Mr. Moore, the collector, applied both to the governor and assembly that a clause might be inserted therein giving the said supreme court jurisdiction originally to hold plea of all suits and informations wherein the King should happen to be concerned; but this clause (here inclosure No. 1) being rejected, I then applied to the governor, desiring his favor that the execution of this law might be suspended until His Majesty's pleasure should be signified thereon. (A copy of my letter on this subject is here inclosed, together with the answer the governor was pleased to return me, [inclosure] No. 2.) In which answer he excuses himself from proposing the adding the clause I had offered and alleges some reasons which in my opinion are of very little weight.

What I have humbly to offer to your Lordships on this subject, besides the barefaced partiality of stifling a prosecution already commenced, is that the leaving the officers of the cus-

toms no other court wherein to prosecute for breaches of the acts of trade than the inferior county courts must entirely discourage all such prosecutions; for as the judges of those courts are men but of mean circumstances and as mean capacities, so are the juries more apt to be biased in favor of those who transgress the law, the common people being generally of opinion that those who bring goods from foreign parts can afford them better pennyworths than others who import the like commodities from Great Britain, where the duties and customs are high. On the other hand, the judges of the supreme court are men of the best understanding and best fortunes in the province, and as they are not to be biased themselves, so their judgment and discretion in point of law will always have great weight with the jury, or if any of them should prove obstinate and bring in an unjust verdict these judges will grant a new trial, which is not to be expected in the inferior courts. So that your Lordships will judge upon the whole matter whether this late act of assembly made for a particular purpose to screen an offender from a legal prosecution and to take away the jurisdiction of a court the most competent for trial of suits wherein the King is concerned ought to receive any countenance.

Besides, this act seems to me directly repugnant to the act of Parliament of the seventh and eighth of King William, which gives the prosecutor his election to sue for breaches of the acts of trade in any of the King's courts in the plantations where he thinks fit; but if the plantation assemblies can either prohibit by a vote or by a law oust one court of its jurisdiction, they may by the same means prevent all others from taking cognizance of the like prosecutions, and so render ineffectual all the acts of Parliament which regulate the plantation trade, especially in this country of Pennsylvania, where annual assemblies are by the constitution to be constantly held. If upon consideration of what I have here represented and perusal of the act itself, which I have directed the collector of Philadelphia to transmit to your Lordships, you shall find it incompatible with the due execution of the acts of trade, I hope your Lordships will be pleased to take proper

measures for the repeal thereof and for discouraging future assemblies from the like attempts hereafter, since by the same rule they have stopped one prosecution, they may, as occasion requires, make laws to render ineffectual all others.

. While I am now laying before your Lordships the proceedings of one assembly, give me leave to mention that of another, which in my humble opinion is not only unjust in itself, but in its consequence injurious to the trade of Great Britain.

In the assembly held in Virginia, in May, 1726, a bill was prepared by the House of Burgesses and sent up to the council, entitled "An act for the more effectual preventing the bringing tobacco from North Carolina and the bounds in controversy," whereby all tobacco imported by land or water from that province is declared to be forfeited and a penalty also laid upon the importers. Upon the reading of this bill I excepted against it, and at its passing thought it my duty as a member of the council to enter my dissent and to offer my reasons, which your Lordships will find in the journal of that assembly the 24th of May, to which I have this further to add, that the restraining the people of North Carolina from selling or shipping off their tobacco in Virginia, when they have neither shipping of their own nor ports to receive them, must of consequence force them upon manufactures of clothing for themselves, since they are thus prevented of all supplies by the produce of their labor; and thus by a partial restraint of trade from one part of His Majesty's dominions to another, His Majesty's customs are lessened, the consumption of British manufactures diminished, and instead thereof a country which begins to grow numerous laid under the necessity of falling into manufactures of their own; for 'tis impossible to imagine that a number of people should continue long under the want of necessary clothing without exerting their industry, especially when the country they inhabit is capable of furnishing them with materials.

This I humbly offer to your Lordships' consideration as my sentiments of the two acts above mentioned, hoping I shall not offend your Lordships by taking upon me to trouble you with what particularly concerns that part of the trade and navigation of Great Britain which is put under my inspection within

the southern provinces of this continent; and though my office obliges me more particularly to correspond with the commissioners of His Majesty's customs, yet I know none more proper than your Lordships' board to whom I can apply for checking the irregular proceedings of these plantations' assemblies when they take upon them to enact laws in contradiction to those which the wisdom of Parliament has thought necessary they should be governed by.

If your Lordships think fit to allow me the liberty of laying before you, from time to time, whatever of the like kind comes to my knowledge in the course of my survey, I shall be proud to receive your Lordships' commands; but if not, you will have the goodness to pardon this trouble, which I have not presumed to offer but with a just regard to the duty of my office and that particular respect with which I am,

My Lords,

Your Lordships'

Most obedient and

Most humble servant,

FITZWILLIAM.

Ibid., Vol. 12, R. 84.

3.

Whitehall, Tuesday, 7th May, 1728.

At a meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Earl of Westmoreland,

Sir O. Bridgeman,

Mr. Bladen,

Mr. Carey.

* * * * *

A letter from Mr. Fitzwilliam, surveyor-general of the customs in the southern districts of America, dated December 26th, 1727, relating to an act passed at Pennsylvania for establishing courts of judicature and another passed in Virginia.

Ordered that Mr. Gee be acquainted that the board desires to speak with him on Thursday, the 16th of this month, at

eleven o'clock in the morning, upon the before-mentioned act passed in Pennsylvania.

Board of Trade Journals, Vol. XXXVIII, f. 134, 135.

4.

16th May, 1728.

Mr. Gee attending, as he had been desired, with Mr. Clement, their Lordships took again into consideration the letter from Mr. Fitzwilliam relating to the Pennsylvania act for establishing courts of judicature, &c., mentioned in the minutes of the 7th instant, and their Lordships desiring these gentlemen to give the board an account of what they knew concerning this matter as soon as they could, they desired to have an extract of the said letter, which was ordered accordingly.

Ibid., Vol. XXXVIII, f. 145.

5.

Whitehall, Wednesday, 15th April, 1730.

At a meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Earl of Westmoreland,	Sir O. Bridgeman,
Mr. Pelham,	Mr. Carey,
Mr. Bladen,	Sir T. Frankland.

* * * * *

The Secretary then laid before the board four laws passed at Pennsylvania in 1727, which he had received from the proprietor's agent, entitled as follows:

"A supplementary act to the act for ascertaining the number of members of assembly and to regulate elections."

"An act for establishing a ferry from the city of Philadelphia to the landing at or near the house of William Cooper and another from or near the city bounds to Gloucester in New Jersey."

"An act for establishing of courts of judicature in this province."

"A supplement to the act for taking lands in execution for the payment of debts."

Ordered that the said acts be sent to Mr. Fane for his opinion thereupon in point of law.

Ibid., Vol. XL, f. 89.

6.

15th April, 1730.

To the King's Most Excellent Majesty in Council:

The humble petition of John Moore, Esquire, collector of His Majesty's customs at the port of Philadelphia, in the province of Pennsylvania,

Showeth:

That your petitioner, in the year 1724, seized a ship and cargo of East India and other contraband goods illegally imported to the said port of the value of twenty thousand pounds, as appears by due proof made before the right honorable the Lords of the committee for hearing appeals, complaints, &c., from the plantations, in November, 1725, which ship and cargo were in a most riotous manner, at midnight, by seventy or eighty persons in disguise, forced out of your petitioner's hands and carried several miles out of the said port, and after the said goods were run and secreted there was a covinous information preferred in an inferior court of the said province by the instigation of Sir William Keith, then deputy-governor of the same, and your petitioner's claim of property vested by the prior seizure and the intrusion and embezzlement since made were altogether rejected and disregarded, by means whereof His Majesty's thirds of said seizure were reduced one hundred and fifty-seven pounds and your petitioner was entirely defeated of his right, but has been put to very great expense in endeavoring to discharge his duty in that affair and in defending himself against the most unjust complaints and allegations of the said Sir William laid before their excellencies the Lord Justices, who referred the same to the said Lords of the committee, &c. Whereupon their Lordships were pleased to order and declare that your petitioner be at liberty to proceed in the proper court of Pennsylvania upon the seizure alleged

to be made by him in such manner as he should be advised. Whereof the said Sir William Keith and all others whom it did concern were to take notice and govern themselves accordingly as by the said order, dated 20th November, 1725, may appear. And your petitioner afterwards having the advice and opinion of Sir Philip Yorke and Sir Clement Wearg that the supreme court of Pennsylvania was the proper court for the purpose aforesaid, and that he ought to exhibit informations upon the said seizure therein and to prosecute the parties who forced the seizure out of his hands.

In pursuance of which order and advice your petitioner did, in April, 1726, exhibit an information *qui tam*, &c., upon the said seizure and in the September following sentence of condemnation was obtained, and thereupon your petitioner did commence divers suits *qui tam*, &c., against persons concerned in the intrusion and embezzlement aforesaid.

But now so it is, may it please your Majesty, that pending the said suits the defendants, combining with the said Sir William Keith, formerly governor but then a member of the assembly for the said province, with other their confederates did apply to the said assembly and by their influence and interest did prevail on the present governor and the then assembly to pass an act on the 25th of August, 1727, whereby the said suits and informations commenced by your petitioner *qui tam*, &c., were discontinued and the supreme court, which had a power of exchequer by the law of Pennsylvania, declared to have no jurisdiction therein, and enacted that the county court (consisting of the same magistrates, being all merchants) which had before given judgment on the aforesaid covinous information should take cognizance of informations and have the power of a court of exchequer for the future, which puts your petitioner under apparent hardships and difficulties to discharge his duty in general and in the prosecutions aforesaid in particular.

Your petitioner therefore most humbly prays that the said act passed at Philadelphia the 25th of August, 1727, entitled "An act for the establishing of courts of judicature in this province," may be repealed and such order and direction may be

made and given touching the premises as to your Majesty shall seem meet.

And your petitioner shall ever pray, &c.

MOORE.

Board of Trade Proprieties, Vol. XII, R. 110.

7.

12th May, 1730.

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council for Hearing Appeals, Complaints, &c., from the Plantations:

The humble answer of Springett Penn, Esquire, grandson and heir-at-law, and of John Penn, Thomas Penn and Richard Penn, gentlemen, devisees under the will of William Penn, Esquire, deceased, to the petition of John Moore, Esquire, collector of His Majesty's customs at the port of Philadelphia in the province of Pennsylvania, presented to His Majesty and referred to your Lordships.

In obedience to your Lordships' order of the 22d of April, 1730, the respondents beg leave to inform your Lordships that they are wholly strangers to the particulars of the petitioner's complaint touching his being deprived of the benefit of a seizure by him made of a ship and cargo in Philadelphia otherwise than by the said John Moore's own petition, nor can the respondents, from the best inquiry they have been able to make in the time allowed by your Lordships for their answer, inform themselves whether that matter is or is not truly represented, or whether the said John Moore or Sir William Keith in his petition named was the first seizors of the said ship and goods, nor as these respondents humbly hope are they at all concerned in that question.

But as to the Pennsylvania act, passed the 25th of August, 1727, entitled "An act for the establishing of courts of judicature in this province," which the petitioner prays may be repealed (and which matter the respondents conceive more immediately concerns them to answer), the respondents pray your Lordships' patience, not only in defense of themselves and their officer or deputy-governor, but also in behalf of the people in

that province, to return to your Lordships the following answer:

That by the letters patent containing the grant of Pennsylvania unto William Penn, Esquire, deceased, the ancestor of these respondents, there is full power given unto the said William Penn, deceased, and his heirs and their deputies, for to enact laws by and with the assent of the freemen there or of their delegates, such laws to be consonant to reason and as near as may be agreeable to the laws of England. And also for to appoint and establish judges, justices and magistrates for what causes soever and to do all things which to the complete establishment of justice, courts, tribunals, forms of judicature and manner of proceedings do belong, reserving to the Crown the appeals from any judgments to be there given. And the Crown was thereby pleased to will and direct that a transcript or duplicate of all laws to be so made and in the said province should within five years after the making thereof be transmitted and delivered to the privy council. And if any of the said laws therein mentioned should be declared by the Crown in their privy council inconsistent with the prerogative of the Crown and contrary to the true allegiance due from the said William Penn or the inhabitants of the province, and that thereupon any of the said laws should be adjudged and declared to be void under the privy seal, then and from thenceforth such laws should be void and otherwise should remain in full force.

And the respondents do admit that Patrick Gordon, Esquire, is their deputy-governor of Pennsylvania (approved by his late Majesty) and as such did by and with the advice and consent of the freemen of the said province in general assembly met, on or about the 25th day of August, 1727, pass a public general act there (pursuant to the said letters patent), entitled "An act for the establishing of courts of judicature in this province."

And these respondents further say that some few weeks since they did of their own accord present a transcript or duplicate of the said act under the seal of the said province to the Lords Commissioners for Trade and Plantations, that being, as these respondents are informed, the usual and accustomed place (since the establishment of that board) for presenting acts from

the plantations in order to the pleasure of the Crown thereon, and these respondents presented the said act in manner aforesaid in obedience to the direction in the said letters patent long within the time thereby limited and before ever they had the least notice or intimation of the present petition.

The respondents beg leave to acquaint your Lordships with the purport and nature of the said act and the occasion and manner of passing the same, which they humbly hope will induce your Lordships rather to advise his sacred Majesty to confirm the said act than (as the petitioner prays) to repeal the same.

As to the purport and nature of the said act, it enacts that a court of general quarter-sessions of the peace and gaol delivery shall be held four times a year in each county of the province on the days therein named, and that a competent number of justices in every of the said counties shall be authorized by the governor or lieutenant-governor under the seal there (which is not more than what the said letters patent itself directs) that the said justices may hold private sessions and take recognizance in the King's name for the peace, behavior or for appearance, and those for suspicion of felony to be certified before the supreme court of oyer and terminer.

That if any persons find themselves aggrieved with the judgment of the quarter-sessions they may of course have writs of error to the supreme court of the province with directions how the tenor of the record shall be transmitted. That the supreme court shall be held twice a year, in September and April, at Philadelphia, and that there shall be three persons of known integrity and ability commissioned by the governor or lieutenant-governor to be judges of such court and to issue writs of *habeas corpus*, *certiorari*, writs of error and all remedial writs or process returnable to the said court, and to hold the said court and determine all causes, matters and things cognizable in the said court, and also to hear and determine all causes which shall be removed or brought there from the respective quarter-sessions, from the court of the city of Philadelphia or from any other court of the province by virtue of any of the said writs after final judgment shall be given in the said courts, and to examine and correct all manner of errors

of the justices and magistrates of the said province in their judgment, process and proceedings in the said courts, as well in all pleas of the Crown as in all pleas real, personal and mixed, and to reverse or affirm such judgment as the law does or shall direct, and to examine, correct and punish all contempts, omissions, corruptions and defaults of justices of the peace, sheriffs, coroners, clerks and other officers, and to award process for levying all such fines and amercements as shall be set in the said supreme court, and to minister justice to all persons, as fully as the courts of King's Bench and common pleas can do, upon writs of error and other remedial writs issuing out of the said court, reserving an appeal to His Majesty under a proviso that the appellant shall pay all costs to the time of the appeal and give bond in double the sum recovered to prosecute his appeal in eighteen months, and then execution is to stay unless the appellee on his part give sufficient security to make ample restitution of what the appellant shall have lost by means of the judgment or decree appealed from. It also enacts that the governor or lieutenant-governor may appoint a prothonotary of the said supreme court. It also provides that the writs out of the said supreme court shall run in the King's name, and that none of the judges of that court shall sit judicially in any of the inferior courts. It further enacts that the said supreme court shall have power from time to time to deliver the gaols of all persons committed for treason, murder and other capital crimes or felonies of death. And to prevent the hardships persons might lie under by process issuing out of the supreme court in civil causes and informations on penal statutes, the said supreme court shall not issue original writ or process in civil causes.

The act goes further and enacts that a county court of common pleas shall be held in each year before persons to be commissioned by the governor or his lieutenant, who shall hold pleas of assize, *scire facias*, replevins, informations and actions upon penal statutes and hear and determine all manner of pleas, actions, suits and causes, civil, personal, real and mixed, according to the laws of the province as fully as the common pleas and exchequer in England, and directs the

method of issuing writs of all kinds, subpoenas for witnesses, executions and all other proceedings in those courts, and also directs the qualification oath and admission of attorneys and penalties on them in case of misbehavior.

The respondents, having stated to your Lordships the general nature and purport of the said act, beg leave in the next place to acquaint your Lordships of the occasion and manner of passing of the same, and which was as follows:

On the 22d of November, 1726, sundry merchants and others of Philadelphia petitioned the assembly (then sitting there), alleging that they conceived the judges of the supreme court had no power to issue original process, but that they had lately assumed to themselves such a power, to the great grief of the subject, and therefore praying relief from the house. After a second reading of which petition the assembly resolved itself into a committee of the whole house to consider thereof, before whom, as the respondents have been informed and believe, the petitioner himself was several times fully heard, and the assembly had the matter under their consideration for nine months and upwards before they passed this act, as being an act of the most public concernment, which settled and established all the courts of judicature in the province and tends to secure the lives, liberties and properties of all the people in the province.

And these respondents do deny that the same was in any sort intended to prejudice the petitioner's particular action depending, but as a general (as they humbly hope) most necessary and reasonable settlement of the several jurisdictions in the province, which your Lordships may conceive to be for the public benefit and advantage of the whole province and every person therein.

And when this act which took its rise as aforementioned, had been so long under deliberation in the assembly and was sent up to the deputy-governor in the usual manner for his approbation, it will appear to your Lordships from the minutes of council of Pennsylvania hereunto humbly annexed that the said deputy-governor, in obedience to the commands he had received from His Majesty, added the clause thereto for sus-

pending execution upon appeals unless the appellee gave security. And so far was the deputy-governor from desiring anything prejudicial to His Majesty's service or even inconvenient to the petitioner, that it appears by the said minutes of council that the deputy-governor offered a clause to be added to the said bill which he had received from Mr. Moore, the petitioner himself, and which Mr. Moore alleged to be for His Majesty's interest, and which therefore the said deputy-governor recommended the consideration of, whereby all informations and prosecutions wherein the Crown should be in any way concerned should be commenced originally in the supreme court. But it was observed thereon by all the members of the council that it would be in vain to offer the same to the assembly, because the chief design of the bill was to take from that court the power of issuing original writs, which power the assembly had unanimously resolved was not in the said court, it being only a court for redressing the errors of other courts and from the sentence of which there lay no appeal but to the King, and therefore all the council thought that clause very improper. Notwithstanding all which the said deputy-governor (who was appointed by these respondents) had so great a regard to what seemed or was but said to be for His Majesty's service, that he pressed that the said proposed clause should be laid before the assembly, and accordingly the said bill, amendment and clause offered by Mr. Moore were returned to the assembly, who not agreeing to the same the act was passed without it.

The petitioner by his petition seems to say that the supreme court before the passing the said act had by the law of Pennsylvania a power of a court of exchequer and would infer that consequently the informations or actions which he originally brought in that court were proper, but the respondents deny that they know or ever heard of any law or even usage there which can support that allegation, nor does the petitioner mention any particular law for that purpose, and as to the order of his late Majesty in council of November, 1725, mentioned in Mr. Moore's petition, that, upon his own showing, only left him at liberty to proceed in the proper court without at all determining which was so; indeed, the respondents have heard and believe that the petitioner might obtain the opinion of counsel

here that the supreme court was proper to commence his actions originally in, but the respondents submit it to your Lordships' consideration that those opinions were gained by him upon a private case laid before them by Mr. Moore, wherein the case and facts were stated as he thought proper, in order to found and warrant such opinion, and the respondents therefore hope that opinions so obtained will not fix an original jurisdiction in the supreme court.

However these respondents have heard and do believe that Mr. Moore, having obtained such opinions, was willing to try the experiment and begin that practice, and accordingly brought some action or actions in that supreme court, but according to the best light and information these respondents have been able to obtain since the short notice they had of the said Mr. Moore's petition, he was the first person that attempted to introduce that practice, and what leads the respondent the rather so to believe is that one of the oldest acts of assembly of Pennsylvania, passed now thirty years ago, established the forms of all arrests and summons to answer (which are the first processes to bring defendants in to answer any action), and by those forms those writs are returnable in the county courts only and not in the supreme court.

And the commencing suits originally in the supreme court these respondents submit to your Lordships would be not only a great vexation and prejudice to the province in general and contrary to the general rule in His Majesty's colonies and plantations, but also give your Lordships at this board infinite trouble.

For Pennsylvania being but an infant settlement (the youngest of any of the British settlements) and the body of the inhabitants of very small fortunes, beginning to clear and improve the lands, and situate at very remote distances, many of them not less than sixty miles, from Philadelphia (where only the supreme court is held), it would be to their utmost prejudice and indeed utter ruin to be drawn off from their settlements up to Philadelphia upon every action how small soever, and not only so, but afterwards upon an appeal from that supreme court let hither, the loss of time and expense thereof would be what their circumstances would not bear. Neither, as the

ordered that Mr. Fane be reminded of the letter wrote to him the 15th of April last, with the said act, and that he be desired to send his opinion thereupon as soon as possible.

Board of Trade Journals, Vol. XL, f. 159.

10.

Mr. Fane's report upon an act passed in Pennsylvania in 1727 for establishing of courts of judicature in that province.

Dated 3d November, 1730.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

My Lords:

In obedience to your Lordships' commands, signified to me by Mr. Popple's letter of the 15th of April last, I have considered an act passed in Pennsylvania, entitled "An act for the establishing of courts of judicature" in that province, having been attended by Mr. Sharpe on the behalf of Mr. Moore, collector of the customs in Pennsylvania, in opposition to this act, and by Mr. Paris in support of it.

I beg leave to observe to your Lordships that I apprehend there is no material difference between this act and an act passed in the eighth of the late King but in relation to the jurisdiction of the supreme court of this province as to its power of issuing original process and hearing causes in that court, for in all other respects this last act only re-enacts what was before enacted by the eighth of the late King. By this last act the original jurisdiction of the supreme court is in all cases except in indictments taken away, the sole motive of which Mr. Sharpe alleges was to defeat Mr. Moore, the collector of the customs in that province, of the benefit of a very valuable seizure he had made at Philadelphia of the ship "Fame," laden with East India and contraband goods to the value of twenty thousand pounds, which he was then suing for by original process in the said supreme court. I beg leave to observe to your Lordships that it does not very plainly appear to me that this was the sole motive of this alteration; but there is one circumstance which induces me to think that the legislature had prosecutions of this kind in view when this matter was under

consideration by rejecting what I apprehend to have been a reasonable and proper clause offered, which was to retain an original jurisdiction in the supreme court in all actions *qui tam*, informations, &c., wherein the Crown was interested. This I think would have been a proper reservation, as it was not to be presumed that His Majesty's causes would ever be carried on with vexation or oppression in order that they might receive the most solemn and impartial determination, the supreme court being filled with persons bred to the profession of the law, whereas in the inferior courts the persons presiding are generally bred in the mercantile way and who may reasonably be supposed in cases of seizure to be under at least the temptation of being partial in favor of the claimant.

Another objection offered against this law is that a general original jurisdiction being unquestionably vested in the supreme court by the eighth of the late King, the assembly had no power to take it away, for by the Pennsylvania charter if the acts passed there were not repealed by the Crown in five years they were from thenceforth to remain in full force, and the act of the eighth of the late King not having been repealed in five years it must now be considered as having the royal sanction of the Crown and cannot be repealed, varied or altered by any future act without the express leave of the Crown. This fact of the charter I agree to be true, but the question is whether an original jurisdiction was vested in the supreme court by the eighth of the late King; and I take it that there are not words sufficient in that act to give the supreme court an unquestionable jurisdiction. There are some words that point that way, but none so expressive in my opinion as to bring this case within the reason of the beforementioned restriction. It is true the judges of the supreme court in the case of Mr. Moore have thought fit to exercise a jurisdiction, but I see no great conclusion from thence, because courts of law are ever willing, upon the slightest pretenses, to extend their jurisdiction.

Another objection to this law is that though this province is expressly required by their charter to pass no laws but what are agreeable to the laws of England, yet that the restriction

in that act with regard to the superior court is directly repugnant to them; for as this supreme court is a court of record, it is expressly enacted by several acts passed here which extend to the plantations that the custom-house officers may prosecute their seizures in any court of record. I must agree that it has been always thought for the service of the Crown that informations of seizure should be tried in the most superior court of record; but I can't apprehend, with submission to your Lordships, that this act in this particular instance is repugnant to our laws, because it is passed upon a supposition that this superior court was merely a court of error, which though in strictness is a court of record, yet I apprehend it does not come within the reason of our laws.

Another objection offered against this law is that the inferior or county courts are not of sufficient dignity to hear and determine causes of that value which plantation seizures generally are, and that their jurisdiction, being limited to the bounds of their respective counties, the officer is obliged to lay his action where the seizure was made, and has not the liberty, as in England, of laying his action in Middlesex, though the seizure was made in any other county. The laying of informations upon seizures in Middlesex I must observe to your Lordships has certainly been found of very great benefit to the revenue here, because of the partiality too frequently shown to offenders of this kind in their own country. The same inconvenience it is possible may arise in this colony, and therefore it would have been prudent in the legislature to have pursued a method so much approved of here and by experience found to be so greatly beneficial to the revenue. As to the first part of this objection, that the inferior or county courts are not of sufficient dignity to hear and determine causes of that value which plantation seizures generally are, I can only observe what I have before done upon the first objection, that I think His Majesty's causes ought to have the most solemn and impartial determination, which they are more likely to meet with in the administration of persons skilled in the profession of the law than in the hands of merchants.

There were some other reasons offered by Mr. Sharpe on the

part of Mr. Moore against this law, but as I did not think them very material I shall not trouble your Lordships with them.

There were many reasons offered by Mr. Paris in support of this law, the most material of which I shall take the liberty of stating to your Lordships. The principal argument offered in support of this law and alleged as the chief reason for taking away this original jurisdiction from the supreme court is the much greater expense suitors would be put to in prosecuting actions in this court than in the inferior courts from the very great delay that must necessarily happen in legal proceedings from the seldom holding of the supreme court, which I think is to be held but thrice a year and then held at Philadelphia, and the expense and trouble which will necessarily follow by the claimants being obliged to bring their witnesses perhaps from the remotest parts of the kingdom. I am sure I should be very far from objecting to anything which would make the coming of justice more easy in point of expense or more expeditious in its effect, and I think in civil causes, supposing this method is less expensive, that the regulation is perfectly right, but I can't agree that this restriction is at all proper in His Majesty's causes for the reasons I have already mentioned with regard to the dignity of the courts; besides, the delay of justice is an objection in the power of the legislature very easily to remove by appointing the superior court to meet oftener if the necessity of the business should require it.

Another reason offered in support of this law is that it is inconsistent [that] the same court should have an original jurisdiction and sit likewise as a court of error. If there was any weight in this argument this law is now liable to that objection, because there is actually an original power continued by this act in this supreme court in all indictments. For my part I cannot see any inconsistency in it, nor is it unusual, for the court of King's Bench, whose constitution I never yet heard arraigned, has both these jurisdictions.

Another objection offered to the original jurisdiction of this supreme court is that by bringing an action originally in this court no writ of error can be brought to correct any error in this judgment but by appeal home. It may, I agree, put the parties to some extraordinary expense if they should not sub-

mit to the determination of this supreme court. But could they have been in a better condition, supposing the process had begun in the inferior courts and not an acquiescence in the superior court's determination upon the errors? Besides, the legislature of Great Britain have vested a jurisdiction in the admiralty in the plantations in all cases of seizure and have not thought proper to leave the judgments of that court to be reviewed [in] any manner but by appeal home.

Another reason offered in support of this act is that, supposing an original jurisdiction was vested in this supreme court in causes wherein the Crown was interested, Mr. Moore, out of spleen and resentment, would make use of it to harass and distress the people of this province. What the conduct of Mr. Moore has been I can't pretend to say, but sure I am that His Majesty, who has so perfect a regard for justice and so tender a concern for the welfare and happiness of his subjects in every part of his dominions, would never suffer any officer using his authority to oppress his people. If there should be any just grounds for such a complaint against Mr. Moore, it would be more for the honor of the people of this colony to make a complaint of his behavior in a proper place and where they would certainly find redress than to distress His Majesty's officers in the judicial proceedings of this province.

Another objection is that to repeal this act of 1727 would overturn and unhinge all the courts of judicature in this province. This fact I beg leave to observe to your Lordships is not true, for I don't find that the act of the eighth of the late King is repealed by this law. But if it was, by His Majesty's repealing this act which is now under consideration that law would revive again and the judicature of this province would then stand upon the very same foot it does now, except only as to the point of jurisdiction upon which the objections to this act have arisen.

I have now stated to your Lordships the principal objections of both sides and have made my observations upon them. I beg leave upon the whole to say that if the legislature had accepted the clause that was offered upon passing this act to retain a jurisdiction in this supreme court in all causes wherein

His Majesty was interested I should have had no objection to this act; but as they have not, I apprehend it will be of very great prejudice to the revenue, unless your Lordships are pleased to advise His Majesty to repeal it. All which is humbly submitted to your Lordships' great wisdom by,

My Lords,

Your Lordships' most obedient servant,

FRAN. FANE.

Board of Trade Proprieties, Vol. XIV, S. 3.

11.

10th November, 1730.

Mr. Sharpe desired a day may be appointed for considering the act passed at Pennsylvania in 1727 for establishing courts of judicature in this province, and their Lordships appointed likewise this day month for that purpose.

Board of Trade Journals, Vol. XL, f. 289.

12.

8th December, 1730.

A letter from Mr. Sharpe and Mr. Paris, desiring that the consideration of the Antigua and Pennsylvania acts appointed the tenth of the last month for this day may be deferred till Thursday sennight was read.

Ibid., Vol. XL, f. 322.

13.

Whitehall, Thursday, 4th March, 1730-31.

At a meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Earl of Westmoreland,

Mr. Bladen,

Mr. Docminique,

Mr. Ashe,

Mr. Pelham,

Sir O. Bridgeman.

The Secretary acquainted the board that Mr. Sharpe, who attended the 10th of November last in relation to the act passed at Antigua in 1725 to enable William Gregson, of London, gent., to sell and dispose of a certain plantation in the said island formerly belonging to Roger Williams, and to the act passed at Pennsylvania in 1727 for establishing courts

of judicature in this province, desired that another day might be appointed for hearing each party upon these acts, and their Lordships were pleased to appoint Tuesday sennight for that purpose, and ordered that all parties should have notice thereof.

ORL'O BRIDGEMAN.

Ibid., Vol. XLI, f. 44.

14.

16th March, 1730-31.

Their Lordships then postponed the hearing upon the Pennsylvania act passed in 1727 for establishing courts of judicature in this province, appointed for this day, till Mr. Brown, who was going into the country, should return.

A. CROFT.

Ibid., Vol. XLI, f. 51.

15.

15th June, 1731.

The Secretary then laid before the board a letter he had received from Mr. John Sharpe, desiring a day may be appointed for hearing counsel for and against the Pennsylvania act, passed in 1727, for the establishing courts of judicature in this province.

Ibid., Vol. XLI, f. 158.

16.

22d June, 1731.

Their Lordships having appointed this day for hearing counsel for and against the act passed at Pennsylvania in 1727, entitled "An act for establishing courts of judicature in this province," referred to the board by an order of the committee of council read, and Mr. Sharpe attending with Mr. Forster against the act and Mr. Paris with Mr. Brown in behalf of the act, the said act with Mr. Fane's opinion thereupon were read. And their Lordships, after hearing what each side had to offer, finding that the jurisdiction of the supreme court, except in some cases, was taken away and given to the inferior courts, and that the officers of the King's revenue are apprehensive the passing this law may effect the same by abridging the power given to them by the act of Parliament of the seventh

and eighth of King William the Third, entitled "An act for preventing frauds and regulating abuses in the plantation trade," of suing in any court of record, their Lordships gave directions for preparing the draught of a representation for proposing the repeal thereof. But as some doubts arose with the board concerning the King's power of repealing laws passed in Pennsylvania, ordered that the following queries be sent to Mr. Fane for his opinion thereupon, viz.:

Has the King a power by virtue of the Pennsylvania charter of repealing any law passed there that he shall judge proper? Or is his power restrained?

If his power is restrained, then acts of what nature has he a power of repealing?

Ibid., Vol. XLI, f. 164.

17.

23d June, 1731.

The draught of a report directed yesterday to be prepared upon an act passed in Pennsylvania in 1727, entitled "An act for establishing courts of judicature in this province," referred to the board by an order of the committee of council of the 14th of May, 1730, and mentioned in the minutes of the 19th of June following, was agreed and ordered to be transcribed.

Ibid., Vol. XLI, f. 167.

18.

24th June, 1731.

The report for repealing the act passed in Pennsylvania in 1727 for establishing courts of judicature in this province, agreed yesterday, was signed.

Ibid., Vol. XLI, f. 168.

19.

Whitehall, 24th June, 1731.

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council.

My Lords:

Pursuant to your Lordships' reference of the 14th day of May, 1730, we have had under our consideration an act passed in the

assembly of the province of Pennsylvania in August, 1727, entitled "An act for the establishing of courts of judicature in this province," together with the petition of John Moore, Esquire, collector of His Majesty's customs at the Port of Philadelphia in the said province, and the answer made thereto by Springett Penn, Esquire, grandson and heir-at-law, and of John Penn, Thomas Penn and Richard Penn, gentlemen, devisees under the will of William Penn, Esquire, deceased.

We have consulted upon this subject with Mr. Fane, one of His Majesty's counsel-at-law, and have heard counsel both for and against the confirmation of the act in question in behalf of the respondents and of the petitioner.

And upon the whole we take leave to represent to your Lordships that the principal design of this act is to repeal certain powers supposed to have been vested in the supreme court of judicature in Philadelphia by a former law, entitled "An act for establishing courts of judicature in this province," and passed in 1722, which is almost in every other particular the same with that which the petitioner desires to have repealed, and as we are of opinion that the continuance of this new law might prove highly prejudicial to His Majesty's revenue in Pennsylvania and be an encouragement to illegal trade in that province by putting the officers of the customs under great difficulties in prosecutions upon seizures made of contraband goods or other merchandise imported contrary to law, we would propose to your Lordships to lay the same before His Majesty for his disallowance. We are,

My Lords,

Your Lordships', &c.,

T. PELHAM,

M. BLADEN,

JA. BRUDENELL,

A. CROFT.

20.

21st September, 1731.

Order in council dated the 12th of August, 1731, for repealing an act passed at Pennsylvania in August, 1727, for the establishing courts of judicature in that province.

Board of Trade Journals, Vol. XXXVIII, f. 241.

APPENDIX IX.

Papers relating to the acts passed by the twenty-eighth and twenty-ninth assemblies, under the Charter of 1700, from October 14, 1728, to August 15, 1730.

SECTION I.

1. Board of Trade Journal, July 23, 1729.

SECTION I.

1.

Whitehall, Wednesday, 23d July, 1729.

At a meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Mr. Docminique,	Mr. Bladen,
Mr. Pelham,	Mr. Carey,
Sir Tho. Frankland.	

The Secretary then laid before the board an act passed in Pennsylvania in 1729 for emitting of thirty thousand pounds in bills of credit for the better support of government and the trade of this province, and their Lordships gave directions for sending the same to Mr. Fane for his opinion thereupon in point of law.¹

Board of Trade Journals, Vol. XXXIX, f. 211.

¹ No report from Mr. Fane can be found in the Public Record Office, and no further action appears upon the journal of the Board of Trade.

APPENDIX X.

Papers relating to the acts passed by the thirty-third assembly, under the Charter of 1700, from October 15, 1733, to August 17, 1734.

SECTION I.

1. Order of Reference, January 13, 1734-5.
2. Board of Trade Journal, February 6, 1734-5.

At the Council Chamber, Whitehall, the 13th day of January,
1734-35.

By the Right Honorable the Lords of the Committee of
Council for Plantation Affairs.

Whereas the agent of the province of Pennsylvania did on the fourth of this instant January, 1734, deliver into the hands of the clerk of the council an act passed in that province in the seventh year of His Majesty's reign, entitled "An act for confirming the repeal of divers laws of this province." And whereas His Majesty was pleased on the ninth of this instant to refer the said act to this committee, their Lordships this day took the same into their consideration and are hereby pleased to refer the said act (which is hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to the committee.

W. CAREY.

2.

Whitehall, Thursday, 6th February, 1734-35.

At a meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Mr. Docminique,

Mr. Ashe,

Mr. Bladen,

Sir O. Bridgeman,

Sir Ar. Croft.

* * * * *

An order of the committee of council, dated 13th January, 1734-35, referring to the board an act passed at Pennsylvania in the seventh year of His Majesty's reign for confirming the repeal of divers laws of that province, and directions were given for sending the same to Mr. Fane for his opinion thereupon, and whether the King's repeal of a Pennsylvania law by virtue of his order in council only may not be deemed effectual.¹

Board of Trade Journals, Vol. XLV, f. 20.

APPENDIX XI.

Papers relating to the acts passed by the thirty-fourth assembly under the Charter of 1700, from October 14, 1734, to September 20, 1735.

SECTION I.

1. Order in Council, May 21, 1736.
2. Order of Reference, December 8, 1735.
3. Board of Trade Journal, December 18, 1735.
4. Opinion of Francis Fane, December 30, 1735.

¹ No report from Mr. Fane can be found in the Public Record Office, and no further action appears upon the journal of the Board of Trade.

5. Board of Trade Journal, January 15, 1735-36.
6. Board of Trade Journal, January 22, 1735-36.
7. Representation of the Board of Trade, January 23, 1735-36.
8. Board of Trade Journal, June 22, 1736.

1.

At the Court at St. James's the 21st day of May, 1736.

Present:

The King's Most Excellent Majesty in Council.

Upon reading at the board a report from the Right Honorable the Lords of the Committee of Council for Plantation Affairs dated the thirteenth of this instant in the words following, viz.:

Your Majesty having been pleased by your orders in Council of the twenty-sixth of November and twenty-ninth of April last to refer unto this committee an act passed in the province of Pennsylvania on the twenty-fourth day of June, 1735, entitled "An act for the more effectual vesting and settling certain lands in George McCall, pursuant to the covenants and agreements of all the parties having any interest in the same," together with a petition of William Penn, Esquire, grandson and heir-at-law of William Penn, deceased, late proprietary of Pennsylvania, praying to be heard against your Majesty's confirmation of the said act, the Lords of the committee this day took the said act into their consideration, together with a report from the Lords Commissioners for Trade and Plantations thereupon, and were proceeding to hear the petitioner by his counsel against the said act; but the counsel for the petitioner declaring that the petitioner waived all opposition to your Majesty's confirmation of the said act, the Lords of the committee do thereupon humbly report to your Majesty (by the consent of all persons concerned in the said act) that the same is proper to receive your Majesty's royal confirmation.

His Majesty this day took the said report into consideration and was pleased to declare his approbation of the said act. And pursuant to His Majesty's royal pleasure thereupon ex-

pressed the said act is hereby confirmed, finally enacted and ratified accordingly.

(A true copy.)

W. SHARPE.

Board of Trade Proprieties, Vol. XIII, S. 68.

2.

At the Council Chamber, Whitehall, the 8th day of December,
1735.

By the Right Honorable the Lords of the Committee of Council
for Plantation Affairs.

Whereas the agent of the province of Pennsylvania did on the twenty-second of November last deliver into the hands of the clerk of the council in waiting an act, entitled "An act for the more effectual vesting and settling certain lands in George McCall, pursuant to the covenants and agreements of all the parties having any interest in the same." And whereas His Majesty was pleased on the twenty-sixth of the said November to refer the said act to this committee, their Lordships this day took the same into their consideration and are hereby pleased to refer the said act (which is hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

TEMPLE STANYAN.

(Endorsed:)

Order of Committee of Council, dated the eighth of December, 1735, referring to this board an act passed at Pennsylvania in June, 1735, for the more effectual vesting certain lands in Mr. McCall.

Board of Trade Proprieties. Vol. XIII, S. 60.

3.

18th December, 1735.

Order of the Committee of Council, dated December eighth, 1735, referring to this board an act passed at Pennsylvania in

1735 for the more effectual vesting certain lands in Mr. McCall was read.

Ordered that the act be sent to Mr. Fane for his opinion thereon.

Board of Trade Journals, Vol. XLVI, f. 280.

4.

30th December, 1735.

Mr. Fane's report upon an act passed in Pennsylvania in June, 1735, for the more effectual vesting and settling certain lands in George McCall, pursuant to the covenants and agreements of all the parties having any interest in the same.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

My Lords:

In obedience to your Lordships' commands, signified to me by Mr. Popple, I have considered the following act, passed in Pennsylvania in 1735, entitled "An act for the more effectual vesting and settling certain lands in George McCall, pursuant to the covenants and agreements of all the parties having any interest in the same," which I apprehend is intended to supply the want of a recovery; for the King's writs issued here not running in this province, a recovery cannot be carried into execution, and it is the only method they have of barring entails.

I observe the person who applies to the legislature for this act has such an estate vested in him as to give him a right by our law, supposing the lands here to bar all the remainders and that all parties interested have consented thereto; and therefore I am humbly of opinion it is very fit to be passed into a law.

Which is humbly submitted by, my Lords, your Lordships' most obedient servant,

FRAN. FANE.

Board of Trade Proprieties, Vol. XIII, S. 67.

5.

Thursday, 15th January, 1735-36.

Earl Fitzwater,

Mr. Ashe,
Mr. Brudenell,

Mr. Plummer,
Col. Bladen.

Order of Council read the eighteenth ultimo again read, as also the act settling McCall's estate, referred thereby to the board. Mr. Fane's report in favor thereof was read, and the board having no objection thereto ordered the draught of a representation for the confirmation of it.

Board of Trade Journals, Vol. XLVI, f. 3.

6.

22d January, 1735-36.

The draught of a representation for confirming the private act for settling McCall's estate, referred to the board by an order of a committee read the eighteenth of the last month, agreed to and signed.

Board of Trade Journals, Vol. XLVI, f. 3.

7.

Whitehall, 23d January, 1735-36.

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council.

My Lords:

We have considered an act passed in His Majesty's province of Pennsylvania on the twenty-fourth day of June, 1735, referred to us by your Lordships on the eighth day of December last, entitled "An act for the more effectual vesting and settling certain lands in George McCall, pursuant to the covenants and agreements of all the parties having interest in the same."

We have consulted Mr. Fane, one of His Majesty's counsel, upon this act, who hath made no objection to it in point of law, nor have we any reason to allege against the confirmation of it; but we think ourselves obliged to acquaint your Lordships that to prevent all surprise to the parties concerned in the case of private acts we thought proper some time since to come

to a resolution not to recommend any private act to His Majesty for his royal confirmation till the same had lain by six months in our office.

Yet as we find by the charter of Pennsylvania that their acts do acquire a force within six months after their being laid before His Majesty's privy council if they are not declared void within that time, we must submit to your Lordships how long the present act ought to lie by before it be offered to His Majesty for his royal confirmation.

We are, my Lords,

Your Lordships'

Most obedient and

Most humble servants,

T. PELHAM,

M. BLADEN,

ED. ASHE,

A. CROFT,

R. PLUMMER.

Board of Trade Proprieties, Vol. XXXII, f. 34.

8.

22d June, 1736.

Copy of an order in council of the twenty-first of May, 1736. approving a representation of this board for confirming an act passed in Pennsylvania for vesting certain lands in Mr. McCall.

Board of Trade Journals, Vol. XLVI, f. 92.

APPENDIX XII.

Papers relating to the acts passed by the thirty-fifth assembly under the Charter of 1700, from October 14, 1735, to August 14, 1736.

SECTION I.

1. Order in Council, March 10, 1739-40.
2. Order of Reference, June 18, 1739.
3. Opinion of Francis Fane, December 7, 1739.

4. Board of Trade Journal, December 11, 1739.
5. Board of Trade Journal, December 12, 1739.
6. Representation of the Board of Trade, December 12, 1739.

1.

At the Court of St. James's, the 10th day of March, 1739-40.

Present:

The King's Most Excellent Majesty in Council.

Whereas in pursuance of the powers granted to the Proprietaries of the province of Pennsylvania by letters patent under the great seal, the deputy-governor, council and assembly of the said province did in the year 1735 pass eight acts, which have been transmitted and are entitled as follows, viz.:

"An act for the more easy and speedy recovery of small debts."

"An act for vesting the state-house [and other] public buildings, with the lots of land whereon the same are erected, in trustees for the use of this province."

"A supplement to the law for laying out of highways and public roads."

"An act for regulating the retailing of liquors near the iron works."

"An act for confirming the election of the commissioners and assessors for the county of Bucks, &c."

"An act for the better enabling divers inhabitants of the province of Pennsylvania to hold lands and to invest them with the privileges of natural-born subjects of the said province."

"An act to prevent the damages which may happen by firing of woods."

"An act entitled a supplement to the several acts of [assembly of] this province for the relief of the poor."

His Majesty this day took the said acts into his royal consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations and also of a committee of the Lords of His Majesty's most honorable Privy Council thereupon, is hereby pleased to declare his approbation of the said acts, and pursuant to His Majesty's royal pleasure there-

upon expressed, the said acts are hereby confirmed, finally enacted and ratified accordingly. Whereof the deputy-governor, council and assembly of the said province and all others whom it may concern are to take notice and govern themselves accordingly.

(A true copy.)

JA. VERNON.

Board of Trade Proprieties, Vol. XV, T. 37.

2.

At the Council Chamber, Whitehall, the 18th day of June, 1739.

By the Right Honorable the Lords of the Committee of Council
for Plantation Affairs.

Whereas the agent of the province of Pennsylvania did on the fifteenth of this instant deliver into the hands of the clerk of the council in waiting eight acts passed in that province in the eighth and ninth years of His Majesty's reign. And whereas His Majesty was pleased on the said fifteenth of this instant to refer the said acts to this committee, their Lordships this day took the same into their consideration, and are hereby pleased to refer the said acts (which are hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

W. SHARPE.

Board of Trade Proprieties, Vol. XIV, T. 15.

3.

7th December, 1739.

To the Right Honorable the Lords Commissioners for Trade
and Plantations.

My Lords:

In obedience to your Lordships' commands, signified to me by Mr. Hill, I have considered the eight following acts passed at Pennsylvania in 1735, entitled

"An act for the more easy and speedy recovery of small debts."

"An act for vesting the state-house and other public buildings, with the lots of land whereon the same are erected, in trustees for the use of this province."

"A supplement to the law for laying out of highways and public roads."

"An act for regulating retailing of liquors near the iron works."

"An act for confirming the election of the commissioners and assessors for the county of Bucks, &c."

"An act for the better enabling divers inhabitants of the province of Pennsylvania to hold lands and to invest them with the privileges of natural-born subjects of the said province."

"An act to prevent the damages which may happen by firing of woods."

"An act entitled a supplement to the several acts of assembly of this province for the relief of the poor."

To all which I have no objection in point of law.

I am,

My Lords,

Your Lordships' most

Obedient servant,

FRAN. FANE.

(Endorsed:)

Mr. Fane's report upon eight acts passed at Pennsylvania in 1735.

No objection.

Board of Trade Proprieties, Vol. XIV, T. 21.

4.

11th December, 1739.

Read Mr. Fane's report upon eight acts passed at Pennsylvania, referred to this board by order of the Lords of the Committee of Council, dated June the eighteenth last passed, mentioned in the minutes of the twenty-seventh of the same month, to which acts Mr. Fane having no objection, the board ordered the draught of a report thereupon to be prepared.

Board of Trade Journals, Vol. XLVIII, f. 127.

5.

12th December, 1739.

The report upon eight acts passed in Pennsylvania, as mentioned in yesterday's minutes, being prepared and laid before the board, was agreed to and signed.

Board of Trade Journals, Vol. XLVIII, f. 129.

6.

Whitehall, 12th December, 1739.

To the Right Honorable the Lords of the Committee of His Majesty's most Honorable Privy Council.

My Lords:

We have considered eight acts passed in His Majesty's province of Pennsylvania in the year 1735, entitled

"An act for the more easy and speedy recovery of small debts."

"An act for vesting the state-house [and other] public buildings, with the lots of land whereon the same are erected, in trustees for the use of this province."

"A supplement to the law for laying out highways and public roads."

"An act for regulating the retailing of liquors near the iron works."

"An act for confirming the election of the commissioners and assessors for the county of Bucks, &c."

"An act for the better enabling divers inhabitants of the province of Pennsylvania to hold lands and to invest them with the privileges of natural-born subjects of the said province."

"An act to prevent the damages which may happen by firing of woods."

An act entitled "A supplement to the several acts of [assembly of] this province for the relief of the poor."

We have consulted Mr. Fane, one of His Majesty's counsel-at-law, upon these acts, who has no objection to them in point of law; and as no objection appears to us against them, they relating only to the private economy of that province, we are

of opinion that your Lordships may lay the said acts before His Majesty for his royal approbation. We are,

My Lords,

Your Lordships'

Most obedient and

Most humble servants,

MONSON,

M. BLADEN,

R. PLUMMER,

JA. BRUDENELL,

AR. CROFT.

Board of Trade Proprieties, Vol. XXXII, f. 125.

APPENDIX XIII.

SECTION I.

Papers relating to the acts passed by the thirty-seventh assembly under the Charter of 1700, from October 1, 1737, to September 2, 1738.

SECTION I.

1. Order of Reference, January 12, 1738-39.
2. Board of Trade Journal, January 23, 1738-39.
3. Opinion of Francis Fane, January 25, 1738-39.
4. Board of Trade Journal, February 2, 1738-39.
5. Board of Trade Journal, February 6, 1738-39.
6. Board of Trade Journal, February 13, 1738-39.
7. Board of Trade Journal, February 21, 1738-39.
8. Representation of the Board of Trade, February 21, 1738-39.
9. Objections of Governor Thomas to Chapter 346, October 20, 1740.

1.

At the Council Chamber, Whitehall, the 12th day of January,
1738-39.

By the Right Honorable the Lords of the Committee of Council
for Plantation Affairs.

Whereas the agent of the province of Pennsylvania did on the eighteenth of December last deliver into the hands of the clerk of the council in waiting three acts passed in that province in the months of August and September last; and whereas His Majesty was pleased on the twenty-first of last month to refer the said acts to this committee, their Lordships this day took the same into their consideration and are hereby pleased to refer the said acts (which are hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

W. SHARPE.

Board of Trade Proprieties, Vol. XIV, T. 12.

2.

Tuesday, 23d January, 1738-39.

Lord Monson,

Col. Bladen,

Mr. Plummer,

Mr. Ashe.

Read an order of the Lords of the Committee of Council, dated January twelfth, 1738-39, referring to this board three acts passed in Pennsylvania in August and September, 1738. And the titles thereof being read, their Lordships directed that the said acts should be sent to Mr. Fane for his opinion thereon in point of law.

Board of Trade Journals, Vol. XLVIII, f. 7.

3.

25th January, 1738-39.

To the Right Honorable the Lords Commissioners for Trade
and Plantations.

My Lords:

In obedience to your Lordships' commands, signified to me
by Mr. Hill, I have considered the three following acts passed
at Pennsylvania in 1738, entitled

"An act for laying an excise on wine, rum, brandy and other
spirits."

"An act to remove the trustees of the general loan office of
Pennsylvania and appointing others to execute the said trust."

"A supplement to the act, entitled 'An act for imposing a
duty on persons convicted of heinous crimes and to prevent
persons being imported into this province.'"

To all which I have no objection in point of law.

I am,

My Lords,

Your Lordships' most

Obedient servant,

FRAN. FANE.

No objection.

Board of Trade Proprieties, Vol. XIV, T. 13.

4.

2d February, 1738-39.

Read Mr. Fane's report upon three acts passed in Pennsyl-
vania in 1738, and the secretary was ordered to write a letter
to Mr. Paris, agent for that province, desiring his attendance at
this board on Tuesday morning next in relation to the three
acts referred hither by the Lords of the Committee of Council,
as mentioned in the minutes of the twenty-third of the last
month.

Board of Trade Journals, Vol. XLVIII, f. 10,

5.

6th February, 1738-39.

Mr. Paris, agent for Pennsylvania, attending as desired by the minutes of the second instant, the board had some discourse with him relating to the supplement of an act passed in that province, which act had never been transmitted to this office, and he not being able to give a satisfactory account of the said affair their Lordships desired him to search further into it and attend again upon that subject Tuesday next, which he promised to do accordingly.

Board of Trade Journals, Vol. XLVIII, f. 11.

6.

13th February, 1738-39.

Mr. Paris attending according to promise, as mentioned in the minutes of Tuesday last, and not being able to show that the act to which the supplemental act mentioned in the same refers had ever been laid before this board or confirmed by His Majesty, their Lordships were pleased to order the draught of a report should be prepared recommending His Majesty's disallowance of the said supplemental act.

Board of Trade Journals, Vol. XLVIII, f. 14.

7.

21st February, 1738-39.

Report to the Lords of the Committee of Council, recommending to them to advise His Majesty's disallowance of the supplemental act to an act of Pennsylvania, as mentioned in the minutes of the thirteenth instant, was agreed to and signed.

Board of Trade Journals, Vol. XLVIII, f. 17.

8.

Whitehall, 21st February, 1738-39.

Report to the Lords of the Committee of Council upon an act passed in Pennsylvania the second of September, 1738, entitled "A supplement to the act entitled 'An act for imposing a duty on persons convicted of heinous crimes, &c.'"

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council.

My Lords:

Pursuant to your Lordships' order of the twelfth of January last, we have taken into our consideration an act passed in Pennsylvania September second, 1738, entitled "A supplement to the act, entitled 'An act for imposing a duty on persons convicted of heinous crimes and to prevent poor and impotent persons being imported into this province.'"

This act is a supplement to the other mentioned in the title, which was passed in the third year of His Majesty's reign but was never transmitted to this office, nor can we learn from the agent that it was ever laid before His Majesty for his royal approbation; but we have lately seen a copy of it, by which it appears that a duty of five pounds is thereby laid on each convict imported and a security required to be given by the importer to the value of fifty pounds for the good behavior of such convict, with other penalties therein expressed, amounting to a virtual prohibition of importation of convicts, which render ineffectual the statute relating to the transportation of felons passed in the fourth year of the reign of his late Majesty King George.

For which reason we are humbly of opinion that your Lordships may be pleased to advise His Majesty to repeal the said supplemental act.

But we think it proper upon this occasion to inform your Lordships that according to the limitations of the patent granted by King Charles the Second to William Penn, Esquire, the proprietary of Pennsylvania is obliged to transmit all laws passed in that province within the space of five years after they shall have been enacted and to lay the same before His Majesty for his royal approbation; but the Crown has reserved to itself only the space of six months for considering of such laws after their transmission, and if no decision is made thereupon by His Majesty during that time, they acquire the same force as if they had been confirmed. The inequality between the time fixed for transmission of these laws and that allowed for their consideration is a visible advantage in favor of the proprietary.

and should therefore engage him to be more punctually [sic], at least in such transmission; but it is evident in the present case that the laws of Pennsylvania have not been regularly transmitted, and that they are sometimes prolonged, altered or amended even after the time fixed for the laying them before His Majesty, by which means it may happen that by renewing a law after it has remained four years or longer in force they may perpetuate laws to the detriment of the prerogative and of the interest of Great Britain.

We apprehend, therefore, that notwithstanding the great privileges granted by the patent, the proprietary may be admonished to be more careful in his council on this subject for the future.

We are,
 My Lords,
 Your Lordships'
 Most obedient and
 Most humble servants,
 MONSON,
 M. BLADEN,
 ED. ASHE,
 R. PLUMMER.

Board of Trade Proprieties, Vol. XXXII, f. 115.

9.

Governor Thomas' objections to an act for laying an excise on wine, rum, brandy and other spirits, passed August 25, 1738:

20th October, 1740.

My Lords:

As His Majesty's honor and interest in regard to this part of his dominions may be affected by the proceedings of the assembly of this province, and as I have used my utmost endeavors to persuade them to a sense of their duty to His Majesty and of their own danger, and am now left without hope of their doing anything for their security, I cannot, consistent with the trust committed to me, any longer defer laying those proceedings before your Lordships, that you may be enabled

to make such a representation of them to His Majesty as you in your superior judgment shall think necessary.

But that I may not appear too sparing of my own trouble by barely referring to the votes of the assembly, which are transmitted by this opportunity, I shall take the liberty of informing your Lordships that immediately after receiving His Majesty's commands signified to me by his grace the Duke of Newcastle, for granting commissions of marque and reprisal against the subjects of the King of Spain, my endeavors were used to make the principal inhabitants sensible of the defenseless state of this province and of the necessity I should be under of recommending to the assembly at their next meeting to make such a timely provision as might not only secure it against any attempts from the Spaniards, but the French likewise in case they should take part in the war. This I hoped would induce the people called Quakers to agree to sending such members to the succeeding assembly, which is chosen annually here, as were not, like themselves, tied up by religious considerations from doing what is so absolutely necessary for the King's honor and the preservation of their liberties and estates; but it had a very different effect; for they immediately entered into consultations, and came to a resolution to exert their whole power and influence to procure a considerable majority of their own persuasion to be chosen, to oppose all expense on warlike preparations, as they call it. And this was not done with their usual caution and secrecy, but was publicly avowed; and such as advised them to more moderation were told that the province was given to them, and that all others were intruders, and if they did not like their measures might depart out of it. Such is the effect of power, even on a people who in most other governments are contented with a bare toleration in religious affairs. Although, in consequence of these measures, a considerable majority of that persuasion were returned, I was not discouraged from my duty, but urged them to what I thought absolutely necessary under the circumstances of affairs in Europe at that time, but I was so far from meeting with the desired success that they gave me to understand in their messages to me that I was to look upon them as an assembly of Quakers,

and that any proposition relating to arms was an invasion of their rights and of the liberty of conscience granted to them by the first proprietor. And thus they did not content themselves with having laid aside all regard for the interests of the Crown, as well as of all others of whom they were equally the representatives, but they ridiculed the neighboring governments for having established militias, which they said could be of no use but to increase the power of the several governors. And that I, in particular, might feel the weight of their resentments, they adjourned themselves without giving that part of my support which had been for many years given to preceding governors at the session held at that season of the year, and kept it from me for near four months.

* * * * *

Upon a revival of the arguments made use of by me on that occasion, I am truly ashamed they should appear before your Lordships; but as my messages were generally wrote in a hurry of much other business, I trust that your Lordships' candor will rather commend my zeal for His Majesty's service and the security of the people under my government, than observe upon my want of abilities for managing a controversy so much out of the common road.

The whole year having been spent in fruitless disputes, in which your Lordships will observe an acrimony not at all agreeable to the professions of meekness and humility generally made by these people, a new assembly was chosen on the first instant, by which there is as little reason to expect any provision will be made for the defense of the province as there was by the former; since by the arts of the same set of people and the positive directions of their yearly meeting, which was at first designed for the regulation of the religious concerns of that Society (but in this instance have taken upon them to direct the civil affairs of the government), there are but three returned out of thirty that are not of that profession. This, however, could not have been effected had not the votes of the Germans (who are very numerous here) been engaged by deceiving them into a belief that a militia will bring them under as severe a bondage to governors as they were formerly under to

their princes in Germany; that the expense would impoverish them, and that if any other than Quakers should be chosen upon the assembly they would be dragged down from their farms and obliged to build forts as a tribute for their being admitted to settle in the province.

Many other falsehoods were spread among them in printed papers, one of which falling into my hands, I have inclosed, with as good a translation of it as I could procure.

Your Lordships may be apt to conclude that the Quakers, from their great weight in elections, are a majority of the people in the province, but they are not one-third, by the best computations I can get; yet from their union they have a much greater influence on all public affairs here than the other societies.

* * * * *

This province is become very populous, from the great numbers that have for many years past come into it from Britain, Ireland and Germany; and your Lordships will observe that it has now near ten thousand pounds in bank from the interest of paper-money allowed to be struck here by the grace and favor of His Majesty, besides an annual interest of four thousand pounds per annum, and three thousand five hundred pounds per annum arising out of the excise upon liquors; but so long as the house of assembly shall be composed of a set of people who oppose all preparations for defense, neither their numbers nor their money will be of any use, and the province will remain exposed to any enemy that shall think fit to invade it. Their acting as magistrates (though not reconcilable to their own principles in criminal matters) or in any other public stations is not attended with the same danger. Such, my Lords, is the resort to this place, that although the assembly complained that seven hundred men were more than they could spare for the expedition now on foot, more than that number have been already imported since the embarkation of those troops, and others are daily coming in.

Besides the plea of principle against bearing arms the assembly say, that as this province has subsisted for upwards of fifty years under the direction of people of the same religious

persuasion, it may subsist fifty years longer. In the last war with France it was little known and was of little value, but its great trade with wheat for some years past to the ports of France, Spain and Portugal has let both France and Spain into the knowledge as well of its riches as the feebleness of its government; and consequently it may with reason be apprehended that they may hereafter attempt what they were not able to do then or did not think would quit the expense. And the proprietors are so sensible of this that, although some of them are of the people called Quakers, they gave me instructions at my coming to the government to take every favorable opportunity to persuade the assembly to establish a militia, as well as to take all other proper measures for the security of the province.

Your Lordships will observe upon a further perusal of the votes of assembly that no other governor in America has labored under the like difficulties in the execution of His Majesty's commands relating to the expedition. For although the principles of the Quakers disqualify them from serving His Majesty in all that relates to war, they are so fond of power that no pains is spared to exclude all others from the exercise of it, even to the prejudice of the King's service. Their principles in this case would not allow them to raise men; their principles would not allow them to raise and appropriate money to the uses required by His Majesty; and yet they spent ten days in idle disputes about a bill it appears they never really intended to pass, since they adjourned themselves to the eighteenth of August, notwithstanding my pressing insistance to the contrary, on the rumor, as they called it, of the probability of a peace, and other as frivolous pretenses, although they were informed by his grace the Duke of Newcastle's letter to me, which was laid before them, that it was His Majesty's intention that the troops raised here should embark before that time. This put me under a necessity of calling them by writ to meet three weeks before the time to which they had adjourned themselves. And being again pressed to make the provision expected by His Majesty for the seven companies raised in this government, which were then all completed, they

were obliged to seek for other pretenses to justify their refusal to comply with His Majesty's instructions; and so not only found fault with the number of men raised, but complained that the officers by my encouragement had enlisted bought servants and insisted upon my discharging them, and that otherwise they would neither grant money for victualing or transporting them. To this I answered in substance that the officers were directed by me to receive none but freemen, in hopes the assembly would give a bounty, as was done in New England, Rhode Island, Maryland, &c., to encourage a sufficient number of such to enlist; and if they would even then give a bounty, the servants might be gradually discharged and the companies filled up with freemen; that if the receiving servants was against law, the officers were to answer for it; but as the opinions of the lawyers whom I had consulted on this point were various, I could not take upon me to force servants out of the companies in consequence of their claim, lest I should thereby betray a right which it is conceived His Majesty has to the service of his subjects in defense of his dominions and in support of their own rights of commerce and navigation; and that, besides, it would not be practicable to discharge them all at once without the danger of a mutiny and breaking all the companies (the freemen having taken part with them) if I had any such power, which I very much doubted, as the magistrates had qualified them, and as they had received the King's subsistence for some weeks before complaint was made to me of the officers having enlisted servants. But this and much more would not satisfy them; so they resolved that three thousand pounds should be given for the use of the Crown under certain conditions, and then adjourned themselves without giving me an opportunity of saying anything further to them until their next meeting. One of the conditions of this resolve was the discharging the servants out of the companies, although I had told them that I did not conceive I had authority to do it for the reasons before mentioned; but though that condition could have been performed, the money could not have been made use of without His Majesty's personal directions, and therefore not for the

present expedition. And further, the money was to be paid back into the treasury if His Majesty did not order the receipt of it in nine months, which is a time too short even for negotiating a common bill of exchange between this place and London.

Your Lordships will observe that the assembly insinuate that the trade of servants is advantageous to Britain and insist upon masters having a property in those servants. If that be a property against the King then His Majesty has by their entering into indentures lost the service of some thousands of his subjects in this province in a war either offensive or defensive. I am sensible there is an act of Parliament permitting persons to transport themselves to the plantations by entering into indentures with merchants and others, but these are supposed to be vagabonds and idle persons. The case is quite different with the generality of those brought here; for merchants and masters of vessels, by deluding promises of mighty advantages, persuade a great number of tradesmen to enter into indentures with them and when brought here sell them for their own benefit, the tradesmen not receiving one shilling wages during the whole time of a very hard servitude; and by this means the inhabitants here are enabled to carry on at a very cheap rate manufactures of several sorts directly interfering with those of Great Britain; and it may be plainly seen from the advertisements in the weekly newspapers here of the sale of servants that they are principally tradesmen, and not laborers for the raising of hemp, flax or manufacturing of potash, which would be of real advantage to Great Britain, and at the same time furnish the inhabitants here with a commodity to purchase the manufactures of their mother country.

Could I have prevailed upon myself to betray what appears to me to be His Majesty's right, and have joined with the assembly in cramping the expedition by concealing the strength and wealth of this country from the Crown, doubtless it would have been more for my own interest here; but as I could not act so base and disloyal a part, and resolved to be neutral in the affair of servants and leave it to be determined by law, the assembly have rewarded me with calumny and have cut off by vote one-half of my support for this year, and I doubt not will

stop the whole for the time to come unless His Majesty, by your Lordships' interposition, shall be graciously pleased to order that justice be done me in this instance, and that a provision be made by the assembly here for the future, as is done in other His Majesty's governments. For as the governor of this province is and always has been dependent on the assembly for a support every six months, he is not at liberty to exercise his own judgment upon any bills the assembly shall think fit to present to him, or even to assert His Majesty's just prerogatives in any case whatsoever. Starve him into compliance or into silence is the common language both of the assembly and people here when a governor refuses his assent to a bill or presses what they dislike, let the honor of His Majesty or the security of this part of his dominions be ever so much concerned. As for myself, I have so far incurred the displeasure of the governing sect by urging them to provide for the defense of the province and by my zealous execution of His Majesty's commands relating to the expedition, that I have little reason to expect either favor or justice from them for the time to come.

Although I have been, I fear, already too troublesome to your Lordships, I think it my duty further to observe on the method practiced by the assembly here of disposing of large sums of the public money by a bare resolve of that house, as it may be productive of many evil consequences; for I conceive it is not impossible but that in time they may perpetuate themselves by presents to such as have a considerable influence in elections or that they may annually divide considerable sums under one pretense or another amongst themselves, as is suspected to have been done at their last sitting, to keep some of the members steady to them, or they may in process of time do what is worse, apply the public money to purposes injurious to the Crown and to their mother country, since they pretend not to be accountable either to His Majesty or his governors. In all other governments His Majesty's governors and councils are at least a check upon assemblies; but here they take upon them to issue money by a bare resolve without any application to His Majesty or his governor, and consequently claim

a right to all moneys raised or arising as interest from the paper bills of credit, exclusive of His Majesty.

By act of assembly passed here in the reign of the late Queen Anne they have likewise "a power to adjourn themselves, and to sit upon their own adjournments, and have all other powers and privileges of an assembly, according to the rights of the free-born subjects of England and as is usual in any of the Queen's plantations in America." From hence they adjourn themselves as often and to what time they please without the consent of the governor, as will appear by the votes now before your Lordships, and further maintain that the governor has not a power to prorogue them. From this power of adjourning to any distant time it is evident they may evade giving an answer to what shall be recommended to them by His Majesty or put off the doing what may be immediately necessary for His Majesty's service, and so disappoint His Majesty of the expected assistance without any positive refusal; and that this has been really practiced your Lordships will see by their proceedings on His Majesty's late instructions concerning the expedition. The governor, it is true, has a power of calling them together by writ; but to what purpose will that be, since they can immediately adjourn themselves again to their own time? As this, likewise, may be productive of great inconveniencies and disappointments to His Majesty's service it may not be unworthy of your Lordships' notice.

I further submit it to your Lordships whether the excise-act now before you, and which raises near three thousand five hundred pounds per annum expressly for the support of government, is entitled to your Lordships' recommendation to His Majesty, since the assembly have cut off one-half of my support the last year, and give out that they will stop the whole for the time to come, contrary to the intentions of that act, which was designed to raise a fund for paying (amongst other things) the governor one thousand pounds per annum, as usual. The interest arising from the paper-money act lately laid before your Lordships is likewise to be applied to the support of government; and yet the assembly have refused to comply with what His Majesty so justly expected from them for carrying

on a war towards which they no otherwise have been charged with any part of the burden.

After the fatigue of raising eight hundred men in this and the government of the lower counties, of attending their discipline, of negotiating bills and paying them, of raising money by subscription for victualing and transporting them, and procuring ships and provisions, your Lordships will not think that I wantonly give you or myself this trouble. I could gladly have excused myself from it had I not thought it my indispensable duty to inform your Lordships of what has been doing here. My own interest is very little concerned; for I am too well acquainted with the narrow, bigoted views of the governing sect here not to be convinced that it is impossible for me to serve His Majesty faithfully and please them under the present circumstances of public affairs; and therefore, with His Majesty's permission, I should gladly resign the government so soon as I can with any security transport my family to England. In a time of settled tranquillity it may be otherwise, but at present His Majesty's measures and the sentiments of these people are diametrically opposite.

I am,

My Lords,

Your Lordships'

Most obedient and most

Humble servant,

GEO. THOMAS.

Where the asterisks are, some paragraphs describing the defenseless state of the province are omitted.

From a copy in the collection of the Historical Society of Pennsylvania.

APPENDIX XIV.

Papers relating to the acts passed by the thirty-eighth assembly under the Charter of 1700, from October 14, 1738, to August 11, 1739.

SECTION I.

1. Order in Council, May 12, 1740.
2. Order of Reference, November 23, 1739.
3. Board of Trade Journal, March 19, 1739-40.
4. Board of Trade Journal, March 25, 1739-40.
5. Board of Trade Journal, March 27, 1739-40.
6. Board of Trade Journal, April 2, 1740.
7. Board of Trade Journal, April 15, 1740.
8. Board of Trade Journal, April 16, 1740.
9. Representation of the Board of Trade, April 16, 1740.
10. Opinion of the Attorney-General and Solicitor-General, May 10, 1740.

SECTION II.

1. Bill for Raising Money, January 25, 1739-40.

1.

At the Court at St. James's, the 12th day of May, 1740.

Present:

The King's Most Excellent Majesty,
Archbishop of Canterbury, &c., &c., &c.

Whereas in pursuance of the powers granted to the proprietaries of the province of Pennsylvania by letters patent under the great seal, the deputy-governor, council and assembly of the said province did in May, 1739, pass five acts, which have been transmitted and are entitled as follows, viz.:

"An act for the more easy and speedy recovery of small debts."

"A supplement to the act for electing members of assembly, &c."

"An act for the more effectual preserving the credit of our paper money and recovering the proprietary's quit-rent."

"An act for reprinting, exchanging and re-emitting all the bills of credit of this province and for striking the further sum of eleven thousand one hundred and ten pounds five shillings, to be emitted upon loan."

"An act for the better enabling divers inhabitants of the province of Pennsylvania to trade and hold lands within the said province."

His Majesty this day took the said acts into his royal consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations and also of a committee of the Lords of His Majesty's Most Honorable Privy Council thereupon, is hereby pleased to declare his approbation of the said acts; and pursuant to His Majesty's royal pleasure thereupon expressed, the said acts are hereby confirmed, finally enacted and ratified accordingly. Whereof the deputy-governor, council and assembly of the said province and all others whom it may concern are to take notice and govern themselves accordingly.

W. SHARPE.

Order in Council. May 12, 1740.

2.

At the Council Chamber, Whitehall, the 23d of November, 1739.

By the Right Honorable the Lords of the Committee of Council
for Plantation Affairs.

Whereas the agent of the province of Pennsylvania did on the seventeenth of this instant deliver into the hands of the clerk of the council in waiting six acts passed in that province on the nineteenth of May, 1739, entitled as follows, viz.:

"A bill for reprinting, exchanging and re-emitting all the bills of credit now current in this province and for striking the further sum of eleven thousand one hundred and ten pounds five shillings, to be emitted upon loan."

"A bill for the more effectual preserving the credit of our paper money and recovering the proprietary quit-rents."

"A bill for the more easy and speedy recovery of small debts."

"A bill for the better enabling divers inhabitants of the province of Pennsylvania to trade and hold land within the said province."

"A supplement to the act for electing members of assembly, &c."

"A supplement to the act prescribing the forms of declarations of fidelity, abjuration and affirmation, instead of the forms heretofore required in such cases."

And whereas His Majesty was pleased on the twenty-second of this instant to refer the said acts to this committee, their Lordships this day took the same into consideration and are hereby pleased to refer the said acts (which are hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

JAMES VERNON.

Board of Trade Proprieties, Vol. XIV, T. 20.

3.

Wednesday, 19th March, 1739-40.

The board having under consideration two acts passed in the province of Pennsylvania in May, 1739, one entitled "An act for reprinting, exchanging and re-emitting all the bills of credit, &c.," the other entitled "An act for the more effectual preserving the credit of our paper money, &c.," gave directions to the secretary to write to some of the merchants trading to Pennsylvania and acquaint them that their Lordships desire their attendance at the board on Tuesday morning next, the twenty-fifth instant, in order to have some discourse with them on the subject-matter of the said acts.

Board of Trade Journals, Vol. XLIX, f. 26.

4.

Tuesday, 25th March, 1739-40.

Mr. Paris, agent for Pennsylvania, attending together with Mr. Williams, trading to that province, and Mr. Joseph Arthur, residing in it, the board had some discourse with them upon the subject of the two acts mentioned in the minutes of the nineteenth instant, and they informed the board that they had no objection to the said acts, but rather thought them absolutely necessary for the carrying on of commerce.

Ordered that the secretary write to Mr. Paris, agent for Pennsylvania, desiring his attendance on Thursday next, to acquaint him that the board is desirous of discoursing with him on the subject of acts passed in the three lower counties.

Board of Trade Journals, Vol. XLIX, f. 30.

5.

Thursday, 27th March, 1739-40.

Mr. Paris attending as desired by the minutes of the twenty-fifth instant, the board had some discourse with him on the subject of acts passed in the three lower counties, and ordered that the draught of a report be prepared upon six acts passed in Pennsylvania in May, 1739, referred to this board by the Lords of the Committee of Council, as mentioned in the minutes of the fifth of December last.

Board of Trade Journals, Vol. XLIX, f. 31.

6.

Wednesday, 2d April, 1740.

Ordered that the secretary write to Mr. Fane to acquaint him that the board desires to speak with him on Tuesday, the fifteenth instant, upon the subject of a supplement to an act of assembly of the province of Pennsylvania, entitled "An act prescribing the forms of declarations of fidelity, &c.," and that Mr. Paris, agent for the said province, be desired to attend at the same time.

Board of Trade Journals, Vol. XLIX, f. 35.

7.

Tuesday, 15th April, 1740.

Mr. Fane, His Majesty's counsel-at-law, attending, together with Mr. Paris, agent for the province of Pennsylvania, as desired by the minutes of the second instant, the board had some discourse with them upon the subject therein mentioned, and having taken into consideration the draught of a report upon six acts passed in that province in May, 1739 (ordered to be prepared by the minutes of the twenty-seventh of last month), after some alteration made therein ordered the same to be transcribed.

Board of Trade Journals, Vol. XLIX, f. 37.

8.

Wednesday, 16th April, 1740.

The representation upon the six acts passed in Pennsylvania, mentioned in yesterday's minutes, was agreed to and signed.

Board of Trade Journals, Vol. XLIX, f. 39.

9.

Whitehall, 16th April, 1740.

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council.

My Lords:

We have considered five acts passed in the province of Pennsylvania, referred to us by your Lordships' order of the twenty-third of November, 1739, entitled

"An act for the more easy and speedy recovery of small debts."

"A supplement to the act for electing members of assembly, &c."

"An act for the more effectual preserving the credit of our paper money and recovering the proprietary quit-rents."

"An act for reprinting, exchanging and re-emitting all the bills of credit of this province and for striking the further sum of eleven thousand and one hundred and ten pounds five shillings to be emitted upon loan."

"An act for the better enabling divers inhabitants of the province of Pennsylvania to trade and hold lands within the said province."

As two of these acts relate to paper money, we took the sense of the merchants trading to that province upon them, who are of opinion that they are not only reasonable, but likewise necessary for carrying on the commerce of that country.

We have consulted Mr. Fane, one of His Majesty's counsel-at-law, upon the said acts, who has no objection to them in point of law, and as no objection appears to us against them, we have no reasons to offer why they may not receive His Majesty's royal approbation.

We have also considered another act, passed at the same time in Pennsylvania, entitled "A supplement to an act of assembly of this province, entitled 'An act prescribing the forms of declaration of fidelity, abjuration and affirmation' instead of the forms heretofore required in such cases," and have also consulted Mr. Fane thereupon, who has no objection to it in point of law; but we must beg leave to observe that in taking an oath it dispenses with the usual form of kissing the book and gives liberty to take the oath as commonly administered and taken in Scotland. We must therefore submit whether His Majesty may not be graciously pleased to give his royal approbation thereto. We are,

My Lords, &c.,

ED. ASHE,
JA. BRUDENELL,
MONSON,
R. PLUMMER,
M. BLADEN.

Board of Trade Proprieties, Vol. XXXII, f. 131.

10.

10th May, 1740.

To the Right Honorable the Lords of the Committee of Council
for Plantation Affairs.

May it please your Lordships:

In obedience to your Lordships' order of the sixth of May instant, whereby your Lordships are pleased to refer to us an

act passed in the province of Pennsylvania, entitled "A supplement to an act of assembly of this province, entitled 'An act prescribing the forms of declaration of fidelity, abjuration and affirmation,' instead of the forms heretofore required in such cases," and directing us to consider thereof and report to your Lordships with all convenient speed whether we conceive it advisable for His Majesty to signify his royal approbation of the said act.

We have considered the said act, and considering the loose, uncertain manner of penning it and the danger there may may [sic] be of giving way to new scruples about oaths, it does not seem to us advisable for His Majesty to signify his approbation of it.

All which is humbly submitted to your Lordships' great wisdom.

D. RYDER,
J. STRANGE.

(Indorsed in the handwriting of [Ferdinando John] Paris.)

From the original in the Penn papers, in the collection of the
Historical Society of Pennsylvania.

SECTION II.

1

T H E
B I L L

*For the better raising
of Money on the In
habitants of Phila
delphia for Public
uses, and for repeal
ing a former Act
made to like Purpo
ses;*

Together with the Governor's

R E A S O N S

For not Passing the same.

Printed 1739.

As the Bill, whereof that which follows is a true copy, and the reasons against its being passed into an Act, have been the subject of some conversation in this city, That any who are willing to give themselves the trouble of reading them, may be able to form the better judgment, it is thought necessary to print them.

AN ACT FOR THE BETTER RAISING OF MONEY ON THE INHABITANTS OF THE CITY OF PHILADELPHIA FOR PUBLIC USES, AND FOR REPEALING A FORMER ACT MADE TO LIKE PURPOSES.

For the better raising, collecting and applying of money in the city of Philadelphia towards the public uses thereof, and for remedying the inconveniencies which on experience have been found in the former act made for like purposes:

Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the said Province and counties, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for the inhabitants and freeholders of the city aforesaid who are qualified by the laws of this province to elect or be elected representatives of the freemen of this province in general assembly, at the time and place by law appointed for the election of the said representatives for the said city or on the day following, unless it happen on the first day of the week and then on the next day after, annually and every year to meet together in a peaceable manner; and the first year to make choice of three of the inhabitants, freeholders of the said city, to be commissioners for the purposes hereinafter specified, and six others of the said inhabitants, freeholders, to be the assessors of the said city for the year next ensuing; and in every year following to elect one commissioner and six assessors, which elections shall be carried on in manner following: (That is to say) all persons who by virtue of the laws of this province have right to vote in such elections shall at the same time they deliver in their tickets for the choice of burgesses (or representatives of the freemen of the said city to serve in the assembly aforesaid) also deliver in writing to the judges of those elections in one piece of paper the names of the person or persons for whom they vote to serve as a commissioner or commissioners, and in another paper the names of six other persons to be assessors

for the said city; and when all the electors appearing shall have delivered in their papers or tickets, the sheriff and judges of those elections shall proceed in taking an account thereof and publishing the persons duly elected to the respective services aforesaid in like manner as by law is directed in the cases of elections of representatives to serve in the general assembly aforesaid, which commissioners and assessors so from time to time to be chosen shall be the commissioners and assessors to execute this act; so always that the commissioners chosen the first and every year after shall be successively changed as is herein directed, viz.: The commissioner to be chosen the first year which shall have fewest votes to go out at the end of the first year; the commissioner to be chosen the first year having the middle number of votes to go out at the end of the second year; and the commissioner which shall have the highest number of votes to go out at the end of the third year; and the eldest or first chosen of them in every year after to be successively changed by the yearly elections aforesaid forever. And when the said commissioners and assessors shall from time to time be chosen, the sheriff of the city of Philadelphia then and so often shall take their names in writing under the hands and seals of at least six or more of the said freeholders and certify the same to the mayor, recorder and aldermen of the said city for the time being at their general sessions of the peace next after any such election, there to be minuted by the clerk of the said court in the minute-book of the said court. But before any of the said commissioners and assessors so chosen and returned shall take upon them their respective services and duties by this act required of them, they shall respectively take an oath or affirmation of the tenor following: (That is to say)

Thou shalt well and truly cause the city debts to be speedily adjusted and the rates and sums of money by virtue of this act imposed to be duly and equally assessed and laid, according to the best of thy skill and knowledge; and herein shalt spare no person for favor or affection nor grieve any for hatred or ill-will;

which qualification or engagement the mayor and recorder or

any two of the aldermen of the said city shall have power and are hereby required under the penalty of five pounds to administer when required. And the said qualifications shall be put in writing and signed by those who take them, and certified by the mayor and recorder or aldermen aforesaid, and filed by the clerk of the sessions aforesaid, with the sheriff's return of the persons so qualified.

Provided always, That if the inhabitants and freeholders aforesaid shall neglect to choose commissioners and assessors by virtue of this act, then the mayor, recorder and aldermen of the said city for the time being, together with the grand inquest of the said city, may and shall perform the respective offices and duties of the said commissioners and assessors as fully and amply as they might have done at any time heretofore.

And be it further enacted by the authority aforesaid, That the said commissioners and assessors or a majority of them, as soon as conveniently they can after they are qualified as aforesaid, shall annually meet at the court-house of the said city, and then and there or at such other times and places as the said commissioners or any two of them may thereafter appoint shall calculate the public debts and charges of the said city, and also shall calculate what sum or sums of money may be necessary to be raised upon the persons and estates aforesaid from time to time for the building, repairing, regulating streets and amending of any houses, bridges, wharves, water-courses or other uses for the public benefit of the said city; and shall ascertain and set down such competent sum and sums of money as shall be yearly appropriated towards every of the said services, together with such sums as may be needful to make good deficiencies in city rates assessed and not yet collected, and to enforce the collection thereof, as occasion shall require.

And be it further enacted by the authority aforesaid, That for the better enabling the commissioners and assessors aforesaid to make a computation of what sum or sums of money may be raised for the purposes aforesaid in any year, that so often as it shall be thought necessary to build any such house or houses, bridge or bridges, wharf or wharves, landing-place or

landing-places, or to regulate any street or streets, or make any water-course or water-courses, within the city aforesaid, the mayor, recorder and aldermen shall propose the same to the consideration of the commissioners and assessors aforesaid; and if the said commissioners and assessors shall approve thereof as necessary to be done, they shall make an estimate of the money needful for that purpose and proceed in the raising thereof as by this act is directed; and also that the said commissioners and assessors shall agree with workmen to carry on the same accordingly.

And be it further enacted by the authority aforesaid, That the said commissioners or any two of them shall within six days after their annual meetings issue forth precepts directed to the constables in every ward within the said city, requiring them to bring to the said assessors within six weeks after the date of such precepts fair and true certificates in writing upon their oaths or affirmations of the names and surnames of all and every the persons dwelling or residing within the limits of their respective wards with which they shall be charged, and the names and surnames of all freemen, inmates, hired servants and all other persons residing or sojourning in every of the said wards, together with an account of what houses, lands, tenements, rent-charges, bound-servants and negroes, with their ages, they respectively hold or possess in such ward without concealment, fear, malice, favor or affection upon pain of forfeiture of any sum not exceeding five pounds, to be levied as by this act is appointed. And every of the said constables shall, by an order from one or more of the said commissioners, have and receive of the treasurer of the said city two pence per pound for their care and trouble in executing and returning the said precepts in manner aforesaid. And that the assessors for the said city or any four of them shall meet at the day and place where the commissioners' precepts shall be made returnable and then and there receive the constables' returns, and thereupon, by the oaths or affirmations of the said constables or other credible persons or by any other lawful ways or means, inform themselves what persons and estates in the said city are ratable by this act; and shall forthwith equally and im-

partially assess themselves and all others ratable as aforesaid, having a due regard therein to such as are poor and have a charge of children. In which assessments single men whose estates shall not be rated at fifty pounds shall be assessed after the rate of three shillings a head upon a tax of one penny per pound.

Provided always, That no single man who at the time of assessment is under twenty-one years of age or hath not been out of his apprenticeship or servitude six months shall be rated by this act.

Provided also, That no assessment of city rates to be made by this act in any one year shall exceed the value of two pence in the pound and six shillings per head.

And be it further enacted by the authority aforesaid, That all the said respective sums of money, with the names of those persons to whom made payable and the particular uses to which they are appropriated shall be entered in a book to be kept for that purpose by the treasurer for the time being, who is hereby required to provide the same at his own charge, wherein he shall make entries accordingly; and that all accounts of debts and demands justly chargeable upon the said city shall be allowed by a majority of the commissioners and assessors of the said city for the time being, who shall certify such allowance accordingly by indorsement on the said accounts and shall cause the names of the creditors and the sums so allowed them to be entered in a book which the said commissioners shall prepare and keep for that purpose at the charge of the said city.

And be it further enacted by the authority aforesaid, That the commissioners and assessors or the greater number of them shall and may appoint one or more collectors of the said assessments from time to time and shall cause fair duplicates of the assessments to be drawn; one part thereof by the clerk that writes the same shall be delivered to the commissioners of the said city or any two of them, and the other to the collector or collectors, with directions from the said commissioners to every such collector indorsed on his duplicate or annexed thereunto, requiring him to demand of the parties the respective sums of money wherewith they are chargeable and ac-

quaint them of the day of appeal, which shall be appointed by the said commissioners within one month after the assessments are made. But where any of the said collectors cannot meet with the party of whom demand is to be made, he or they shall leave notice in writing with some of the family or at the place of the party's last abode, signifying also the day of appeal, at which day the said collector or collectors shall return their duplicates, with the names of such persons and value of such estates as shall be concealed, undervalued or omitted in the constable's return; and if any person or persons find him, her or themselves aggrieved with any of the said assessments, supposing the same to be unequal, he, she or they may appeal to the said commissioners; and the said commissioners are hereby required to meet on the said day of appeal, where the assessors shall attend and lay before the commissioners all the written certificates of the names of persons taxable and the account of their estates returned by the constables as this act requires, together with the particular valuation set by the said assessors upon the persons and estates so returned; whereupon the commissioners shall take due notice thereof and strictly examine the persons appealing, upon their affirmations or otherwise, concerning the cause of their appeal; and upon such examination or proof of others they are hereby empowered to diminish or add to such person's rate or assessment as to them shall seem just and reasonable, with power also to call before them such persons and take notice of such estates as they find are omitted in the said assessment in order to rectify it; and if the persons so omitted refuse or neglect to appear and give an account of the value of their estates, they shall pay double the the [sic] sum they should or ought to have been rated at by this act. And the said commissioners upon hearing of the said appeals shall rectify and adjust the said assessments by abating or adding to the sums contained in the duplicates, and cause the clerk to give the parties concerned, where omissions are supplied or additions made to their assessments, five days' notice to appear before the said commissioners to make their objections thereunto; and that the said clerk shall within ten days next after the said day of appeal deliver to the treasurer of the said city for the time being a true account of the sums

total which the collector or collectors aforesaid shall be charged with pursuant to this act. And the said commissioners shall cause their clerks to draw fair duplicates of the assessments so rectified as aforesaid and deliver them to the collector or collectors to be appointed as aforesaid within twenty days after the said day of appeal, with a warrant annexed thereunto under the hand and seal of one or more of the said commissioners who signed the said assessments, requiring him or them forthwith to collect and receive from the persons assessed the several sums in the duplicates mentioned, either in silver, gold or bills of credit. And in case any person or persons so rated or assessed by virtue of this act shall refuse or neglect to pay the sum or sums so assessed in manner aforesaid by the space of thirty days after demand made as aforesaid, it shall be lawful for the said collector or collectors respectively, by virtue of a special warrant for that purpose signed and sealed by two or more of the said commissioners, who shall forthwith grant the same, and shall thereby empower the said collector or collectors to call to their assistance if occasion be any constable or other person, and in case of resistance to break open in the day-time any house, trunk, box, chest, closet, cupboard or other things where any such offender's goods, chattels or effects are supposed to be, and make distress and sale thereof, rendering the overplus if any to the owners after reasonable charges deducted. But if no distress can be found by the collector or collectors, and the party refuses or neglects to show some goods or chattels of his own forthwith to satisfy the money then due with reasonable charges, then the said collector or collectors shall take the body of every such person and bring him to the city and county gaol and deliver him to the sheriff or keeper thereof, who shall detain him, her or them in safe custody until payment be made.

Provided always, That where effects cannot be found sufficient to answer the whole sum in arrear with charges as aforesaid, then distress shall be made for so much as the effects extend to, and the party to be imprisoned as aforesaid only for the residue thereof with incident charges; all which charges of distress, assistance and bringing to prison shall be adjusted

and settled by any two or more of the said commissioners when such occasion shall happen.

And be it further enacted by the authority aforesaid, That the said collector or collectors shall once in six weeks at least render a true account of and bring in and pay unto the treasurer aforesaid for the time being all such sum and sums of money as they shall have received, and shall pay the whole and every of the sums of money assessed in their duplicates within three months next after the day of appeal; and the said treasurer shall give receipts to the said collector or collectors for what they shall so bring in and pay from time to time, which receipts shall be sufficient discharges to the collectors for so much; and that the said treasurer shall from time to time signify in writing to the said commissioners how much every of the said collectors brings in and pays as aforesaid; and when the said collectors or any of them are negligent or refuse to do their duty in the premises the treasurer is hereby required forthwith to signify the same by way of complaint to the commissioners aforesaid.

And be it further enacted by the authority aforesaid, That if upon complaint of the treasurer to the commissioners as aforesaid it shall appear that the said collector or collectors refuse or neglect to pay the said sums of money or other effects which he or they shall have collected, or produce receipts testifying the payment thereof in the manner and at the time by this act required, retaining such sums as are hereby allowed for collecting and paying the same, then the said commissioners or any two of them shall fine every such delinquent collector in any sum not exceeding ten pounds and appoint another or others to act in his or their stead. And moreover it shall be lawful for the said commissioners or any two of them and they are hereby required to meet and issue their warrants under their hands and seals directed to the sheriff or coroner of the said city, requiring him to take the body and seize and secure the estate, real and personal, belonging to such delinquent or which shall come into the hands or possession of his heirs, executors or administrators wherever the same can be discovered or found in this province, and to make return of his proceeding therein at such time and place as the said commis-

sioners shall appoint. And that the said commissioners, who shall cause the said lands and estates to be seized and secured as aforesaid, shall be and are hereby empowered to appoint a time for a general meeting of the commissioners of the said city, and to there cause public notice to be given where such meeting shall be appointed six days at least before such meeting; and the commissioners present at such meeting or the majority of them, in case the money detained by such delinquent be not then paid or satisfied, shall and are hereby empowered and required to issue forth their warrants to the said sheriff or coroner, empowering and requiring him to sell and dispose of all such estates as shall be for the cause aforesaid seized and secured or any part thereof, and to bring the money arising by such sale to the commissioners who granted such warrants in order to satisfy and pay unto the treasurer for the time being the sum or sums of money that shall be so unpaid or detained in the hands of the said collectors or other persons, their heirs, executors or administrators, respectively, with damages for what shall be so unpaid, returning the overplus if any be to the owner after all necessary charges deducted; and when any sale of lands, tenements or hereditaments shall be made by such sheriff or coroner respectively pursuant to this act, the title and conveyance thereof shall be by deed, signed, sealed and delivered by the sheriff or coroner, to such person or persons as shall purchase the same in fee-simple or otherwise, which shall be most absolute and available in the law against the said delinquents and their heirs and assigns and all claiming under them; and that all gifts, grants and sales which shall be made by any of the said delinquent collectors or other officers respectively of any of their said estates after the time they should have paid the money or effects arising from the said assessments (unless the estate so seized be sufficient to answer what they are in arrear) are hereby declared to be fraudulent, and shall not prevent or avoid the seizure and sales hereby appointed to be made thereof as aforesaid.

And be it further enacted by the authority aforesaid, That all freemen not being householders nor having a certain place of abode and all hired servants shall be taxed at the place where they reside at the time of the constable's taking their

names as aforesaid; and that every householder shall at the request of the constable of the respective wards give an account of the names, qualifications and estates of such persons as shall sojourn, lodge or dwell in their respective houses, under the penalty of forty shillings, to be levied, charged and paid in manner aforesaid; and if any such freemen shall not be found at such place of residence nor within the said city where their names are taken as aforesaid at the time when such collector or collectors shall come to receive such householder's assessments (unless such freeman or servant hath by himself or his friend paid, or unless such householder or employer doth pay the same for him upon demand made thereof by the collector), it shall and may be lawful for every such collector to make distress and sale of the householder's or employer's goods and chattels for the same, rendering the overplus if any be to the owner as aforesaid; and every such householder or employer at any time after the payment thereof, or where there is danger of losing the same at any time before, shall recover such tax with the cost if any be from every such freeman by warrant of any justice of the peace of the proper county, as in debts under forty shillings.

And be it further enacted by the authority aforesaid, That if any of the said commissioners shall refuse or neglect to do his or their duty in the premises, he or they so offending, being duly convicted in any court of record within this county by bill, plaint, indictment or information, shall or may be fined by the justices of the said court in any sum not exceeding ten pounds, to be levied of the offender's goods and chattels, lands and tenements, with costs of suit.

And be it further enacted by the authority aforesaid, That if any of the said commissioners shall misbehave themselves or happen to die during the time for which they are chosen, the other commissioners with the assessors for the time being, at their next meeting after such death, misbehavior or refusal and neglect as aforesaid, shall in every such case appoint others to act in their stead. And if any of the assessors shall refuse or neglect to do their duty as this act requires, the commissioners aforesaid or any two of them shall fine every such assessor in any sum not exceeding ten pounds, which shall be

levied by two or more of the commissioners' warrants in manner aforesaid.

And be it further enacted by the authority aforesaid, That the said commissioners shall be allowed four shillings and six pence each for every day's attendance, which with reasonable charges to be allowed their clerks for delivering the duplicates and other services, besides writing, as the said commissioners or any two of them by order under their hands shall think fit to allow, shall be paid by the treasurer aforesaid. And the said assessors for their time and labor in the premises shall be allowed three pence per pound for the whole sum contained in the said rates after the assessment is rectified and adjusted by the commissioners according to the directions of this act, to be paid by the treasurer upon sight of the commissioner's order for the same and to be equally divided amongst them, which said poundage shall be to the assessors for the time being in full satisfaction for all the service and attendance required of them by this act. And the said collector or collectors shall retain in their hands six pence per pound for all sums of money by them respectively collected. And the person officiating as clerk shall for his pains in writing the duplicates aforesaid have three pounds, which the treasurer aforesaid is hereby required to pay him accordingly; and if any of the said clerks shall neglect to do his or their duty as by this act is required, he or they shall be fined by the commissioners aforesaid in the sum of ten pounds for each offense, to be levied and paid as aforesaid; and in case of the death, refusal or neglect of any of the said clerks the commissioners shall forthwith appoint others to act in his or their stead.

Provided always, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for their justification; and if the plaintiff or prosecutor become nonsuit or forbear to prosecute or suffer a discontinuance, or if a verdict pass against him in such action, suit or information, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

Provided also, That no person or persons shall be sued or

prosecuted for neglect in the execution of this act unless he or they shall be sued or prosecuted within twelve months after the offense committed.

Provided also, That no proceedings prescribed or required by this act against collectors or other officers and persons refusing or neglecting to comply therewith shall be stayed by *nolle prosequi* or otherwise, nor any fines or forfeitures arising by this act pardoned or released, without payment made thereof to the uses hereby appointed, any law or usage to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, That the said commissioners and assessors or the major part of them are hereby empowered and required as often as there may be occasion during the continuance of this act to choose a treasurer for the said city, which treasurer so chosen is hereby empowered and required to receive all the money and other effects arising as well from all the said assessments, as also the fines and forfeitures which shall be imposed from time to time by virtue of this act; and that the said treasurers for the time being before they enter into the execution of their respective offices shall become bound to the said commissioners with one or more sufficient sureties in an obligation of five hundred pounds conditioned for the true execution of their respective offices and due observance of this act. And in case of death or removal of any of the said treasurers, then the commissioners and assessors aforesaid for the time being or the major part of them shall appoint others to supply the places of such as shall so die or be removed from time to time, who shall give security in like manner as is before directed. And the said treasurer shall keep a book containing a particular account of all the rates and assessments to be made as aforesaid, as also all disbursements and payments as shall hereafter be made by order of the said commissioners by virtue of this act. And that the said treasurers shall yearly on the last fourth day of the week in the month called June bring in and settle their respective accounts with the said commissioners and assessors, a majority of whom shall give attendance for that purpose and shall have power to adjourn from time to time till all the accounts be settled; and the treasurers shall be allowed for their trouble in

receiving and paying all such money as shall come into their hands respectively by virtue of this act so much as the said commissioners and assessors or the major part of them from time to time shall judge reasonable. And if any of the said treasurers shall refuse or neglect to do his duty as by this act is required, he shall be fined by two or more of the said commissioners in any sum not exceeding ten pounds for every offense, which shall be levied as aforesaid by virtue of a warrant under the hands and seals of two or more of the said commissioners directed as aforesaid. And from and after such refusal or neglect or if any of the said treasurers shall happen to die, the said commissioners shall in every such case appoint others to act in their stead.

And where any city treasurers shall be removed from their offices of treasurers they shall deliver up to the succeeding treasurers all books, public accounts and papers belonging to the said city, whole and entire and undefaced, under the penalty of one hundred pounds, to be recovered in the manner aforesaid and for the uses above mentioned. And where any city treasurer hath been or shall be removed by death, the executors or administrators of such decedent shall deliver in like manner all the books and papers relating to the said public accounts to the succeeding treasurer under the like penalties as aforesaid.

And be it further enacted by the authority aforesaid, That all the fines and forfeitures mentioned in this act shall be levied as aforesaid and shall be paid and added to the public stock of the said city.

Provided always, That nothing herein contained shall exempt the inhabitants of the city of Philadelphia from being rated and assessed in proportion with the inhabitants of the county of Philadelphia to pay what is due for making and repairing of bridges in the King's highroads over any rivers or waters where the tide flows within the said county; or from paying for assemblymen's wages when occasion shall require over and besides the two members of assembly chosen to represent the said city; or from paying the moiety of the arrearages now due for wolves' heads wherewith the said county shall be

justly chargeable; but that all persons and estates as aforesaid within the said city shall be liable to pay the respective rates hereafter to be assessed on them from time to time for the purposes aforesaid, anything herein contained to the contrary thereof notwithstanding.

And be it further enacted by the authority aforesaid, That the said commissioners and assessors and treasurers of the said city shall at the general quarter-sessions of the peace, to be held for the said city in the month called July, yearly, exhibit to and lay before the mayor, recorder, aldermen and grand jury of the said city as well the books of entries and accounts directed by this act to be kept by the said treasurers as a true and particular account of all the moneys by them or any of them assessed and raised by virtue of this act, and also an account to whom and for what use or uses the same money and every part and parcel thereof was paid out again, with the proper vouchers, if required; which books and accounts being seen and examined by the mayor, recorder, aldermen and grand juries aforesaid, the said books and receipts or vouchers shall be delivered back safely without alteration to the respective treasurers and the accounts shall be filed and kept among the records and proceedings of the said court.

And be it further enacted by the authority aforesaid, That the act, entitled "An act for raising money on the inhabitants of the city of Philadelphia for the public use and benefit thereof," passed in the tenth year of the reign of the late Queen Anne, and every article and clause thereof, from and after the first day of October next shall be and is hereby repealed to all intents and purposes whatsoever.

The governor's reasons for not passing the foregoing bill:

His Honor the Governor to the Gentlemen of the Assembly.
Gentlemen:

Upon perusal of the charter by which Philadelphia was erected into a city and the mayor and commonalty created a body corporate and politic, I observe the streets are to continue as they were then laid out and regulated; and that the end of each street extending into the river Delaware is to be

and continue free for the use and service of the inhabitants of the said city, &c., who may improve the same for the best advantage of the said city, and build wharves so far out into the river as the mayor, aldermen and common council, &c., shall see meet.

The same mayor and commonalty have a power and capacity to purchase lands, &c.

The mayor and aldermen are justices of the peace and oyer and terminer; and upon their own view or after a legal procedure, &c., may cause all nuisances and encroachments upon the streets to be removed, and punish the parties offending as the law directs.

The same charter grants likewise to the mayor and commonalty power to build a prison and court-house when they shall see occasion, and authority to make such good and wholesome ordinances (not repugnant to the laws of England and of this province) as to them shall seem necessary and convenient for the government of the said city, and the same again to revoke at their pleasure.

And all these they claim as rights and franchises to them and their successors forever, and say they ought not to be divested of them or any of them otherwise than by a trial at law.

It appears that the mayor and commonalty have by virtue of their charter made divers ordinances for regulating the streets, wharves, pavements, buildings, &c., within the said city, and that the same have been carried into execution, very much to the convenience of the said inhabitants and others and to the reputation of the city and country.

And by the bill before me the whole superintendency or regulation of all the streets, wharves, houses, landings, bridges, docks, &c., is put into the hands of commissioners and assessors, to be elected annually by the people. But by the bill they have no power to make ordinances, rules or orders for the government and guidance of themselves or those who are to succeed them in those regulations, nor any power to compel obedience to such rules if made, or any obligations upon the succeeding assessors and commissioners to finish what their predecessors had begun. And whether the mayor and com-

monalty will think fit to continue their ordinances now in being, when the power of putting them in execution is taken out of their hands and put into the hands of those who may or may not observe them at their pleasure is not certainly known.

Therefore, was the bill in all other respects free from objections, these defects would in my opinion render it either wholly impracticable or introduce great confusion, both in public works of the city and among the inhabitants.

But it is clear to me that the bill takes away from the mayor and commonalty of Philadelphia not only the whole care and regulation of the streets, wharves, houses, landings, bridges, docks, &c., which they claim as their inheritance for the use of the inhabitants of the city, but likewise a large and valuable landing of one hundred feet wide on the north side of the draw-bridge, which by a deed now before me appears was purchased by the mayor and commonalty out of their own stock and which they hold for their own use as a body corporate.

Therefore, I cannot give my assent to this bill.

GEO. THOMAS.

Philadelphia, 25th January, 1739-40.

By His Honor's command:

THOMAS LAWRIE, Secretary.

From a copy in the collection of the Historical Society of Pennsylvania.

APPENDIX XV.

Papers relating to the acts passed by the forty-second assembly under the Charter of 1700, from October 14, 1742, to August 13, 1743.

SECTION I.

1. Order in Council (repealing Chapter 354), December 17, 1746.
2. Order in Council (confirming Chapters 355 to 358), December 17, 1746.

3. Order in Council (confirming Chapter 359), December 17, 1746.
4. Order of Reference, August 7, 1746.
5. Board of Trade Journal, August 8, 1746.
6. Opinion of Francis Fane, September 1, 1746.
7. Board of Trade Journal, November 18, 1746.
8. Board of Trade Journal, November 28, 1746.
9. Board of Trade Journal, December 2, 1746.
10. Board of Trade Journal, December 4, 1746.
11. Board of Trade Journal, December 5, 1746.
12. Representation of the Board of Trade, December 5, 1746.
13. Board of Trade Journal, March 25, 1746-47.

SECTION II.

1. A bill for the better regulating the nightly watch, August 11, 1743.

SECTION I.

1.

At the Court of St. James's, the 17th day of December, 1746.

Present:

The King's Most Excellent Majesty,
The Lord President, &c., &c., &c.

Whereas in pursuance of the powers granted to the proprietaries of the province of Pennsylvania by letters patent under the great seal, the deputy-governor, council and assembly of the said province did in February, 1742-43, pass an act which hath been transmitted and is entitled as follows, viz.:

"An act imposing a duty on persons convicted of heinous crimes brought into this province and not warranted by the laws of Great Britain and to prevent poor and impotent persons being imported into the same."

His Majesty this day took the said act into his royal consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations and also of a committee of the Lords of His Majesty's Most Honorable Privy Council thereupon, is hereby pleased to declare his disallowance of the said act; and pursuant to His Majesty's royal pleasure there-

upon expressed, the said act is hereby repealed, declared void and of none effect.

Whereof the deputy-governor, council and assembly of the said province and all others whom it may concern are to take notice, and govern themselves accordingly.

W. SHARPE.

Order in Council, 17th December, 1746.

2.

At the Court at St. James's, the 17th day of December, 1746.

Present:

The King's Most Excellent Majesty,
Lord President, &c., &c.

Whereas in pursuance of the powers granted to the proprietaries of the province of Pennsylvania by letters patent under the great seal, the deputy-governor, council and assembly of the said province did in February, 1742-43, pass four acts, which have been transmitted and are entitled as follows, viz.:

"An act for the more easy and speedy recovery of small debts."

"An act for continuing and amending the act of assembly, entitled 'A supplement to the act for electing members of assembly, &c.'"

"An act for vesting the Province Island and the buildings thereon erected and to be erected in trustees for providing an hospital for such sick passengers as shall be imported into this province and to prevent the spreading of infectious distempers."

"An act for the more easy recovery of legacies within this province."

His Majesty this day took the said acts into his royal consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations, and also of a committee of the Lords of His Majesty's Most Honorable Privy Council thereupon, is hereby pleased to declare his approbation of the said acts; and pursuant to His Majesty's royal pleasure thereupon expressed the said acts are hereby confirmed, finally enacted and ratified accordingly. Whereof the deputy-governor,

council and assembly of the said province and all others whom it may concern are to take notice and govern themselves accordingly.

W. SHARPE.

Order in Council, 17th December, 1746.

3.

At the Court at St. James's, the 17th day of December, 1746.

Present:

The King's Most Excellent Majesty in Council.

Whereas in pursuance of the powers granted to the proprietaries of the province of Pennsylvania by letters patent under the great seal, the deputy-governor, council and assembly of the said province did in February, 1742-43, pass an act, which hath been transmitted and is entitled as follows, viz.:

"An act for naturalizing such foreign Protestants as are settled or shall settle within this province, who, not being of the people called Quakers, do conscientiously refuse the taking of any oath."

His Majesty this day took the said act into his royal consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations, and also of a committee of the Lords of His Majesty's Most Honorable Privy Council thereupon, is hereby pleased to declare his approbation of the said act, and pursuant to His Majesty's royal pleasure thereupon expressed, the said act is hereby confirmed, finally enacted and ratified accordingly.

Whereof the deputy-governor, council and assembly of the said province and all others whom it may concern are to take notice and govern themselves accordingly.

(A true copy.)

TEMPLE STANYAN.

4.

At the Council Chamber, Whitehall, the 7th August, 1746.
By the Right Honorable the Lords of the Committee of Council
for Plantation Affairs.

Whereas the agent for the proprietors of the province of Pennsylvania did on the thirtieth of June last deliver into the hands of the clerk of the council in waiting six acts passed in that province on the third of February, 1742-43, entitled as follows, viz.:

“An act imposing a duty on persons convicted of heinous crimes brought into this province and not warranted by the laws of Great Britain and to prevent poor and impotent persons being imported into the same.”

“An act for the more easy and speedy recovery of small debts.”

“An act for continuing and amending an act of assembly, entitled ‘A supplement to the act for electing members of assembly, &c.’”

“An act for vesting the Province Island and the buildings thereon erected and to be erected in trustees for providing an hospital for such sick passengers as shall be imported into this province and to prevent the spreading of infectious distempers.”

“An act for the more easy recovery of legacies within this province.”

“An act for naturalizing such foreign Protestants as are settled or shall settle within this province, who, not being of the people called Quakers, do conscientiously refuse the taking of any oath.”

And whereas His Majesty was pleased on the twenty-third of last month to refer the said acts to this committee, their Lordships this day took the same into consideration and are hereby pleased to refer the said acts (which are hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

W. SHARPE.

5.

Friday, 8th August, 1746.

Mr. Plummer,

Mr. Pitt.

Read an order of the Lords of the committee of Council, dated seventh of August, 1746, referring to this board six acts passed in the province of Pennsylvania the third of February, 1742-43.

Ordered that the said acts be sent to Mr. Fane for his opinion thereon in point of law.

Board of Trade Journal, Vol. LIV, p. 74.

6.

1st September, 1746.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

My Lords:

In obedience to your Lordships' commands, signified to me by Mr. Hill, I have considered the six following acts passed at Pennsylvania in 1742-43, entitled

"An act imposing a duty on persons convicted of heinous crimes brought into this province and not warranted by the laws of Great Britain and to prevent poor and impotent persons being imported into the same."

"An act for the more easy and speedy recovery of small debts."

"An act for continuing and amending the act of assembly, entitled 'A supplement to the act for electing members of assembly, &c.'"

"An act for vesting the Province Island and the buildings thereon erected and to be erected in trustees for providing an hospital for such sick passengers as shall be imported into this province and to prevent the spreading of infectious distempers."

"An act for the more easy recovery of legacies within this province."

"An act for naturalizing such foreign Protestants as are settled or shall settle within this province, who, not being of the

people called Quakers, do conscientiously refuse the taking of any oath."

To which I have no objection in point of law.

I am, my Lords,

Your Lordships' most

Obedient servant,

FRAN. FANE.

Board of Trade Proprieties, Vol. XVI, V. 33.

7.

18th November, 1746.

Mr. Fane's report upon six acts passed at Pennsylvania in February, 1742-43, dated 1st September, 1746.

Read a letter from Mr. Cossart, agent of the Moravian Brethren, to the board, dated London, 8th November, 1746, in favor of an act of assembly passed in Pennsylvania for naturalizing such foreign Protestants as conscientiously refuse to take an oath, &c., made for the benefit of the Moravian brethren, with a memorial concerning the Moravian church.

Board of Trade Journal, Vol. LIV, ff. 86, 88.

8.

28th November, 1746.

The board took into consideration six acts passed in the province of Pennsylvania the third of February, 1742-43, and after making some progress therein ordered that the secretary write to Mr. Paris to attend on Tuesday next between eleven and twelve in order to have some discourse with him upon one of the said acts, entitled "An act imposing a duty on persons convicted of heinous crimes brought into this province and not warranted by the laws of Great Britain and to prevent poor and impotent persons being imported into the same."

Board of Trade Journal, Vol. LIV, f. 93.

9.

2d December, 1746.

Mr. Paris attending as desired by the preceding minute, the board after some discourse had with him on the subject of the

act therein mentioned, ordered the draught of a report to the Lords of the Committee of His Majesty's Most Honorable Privy Council upon the said act and other acts passed in Pennsylvania in 1742-43, referred to this board by order of their Lordships, dated the seventh of August last, to be prepared.

Board of Trade Journal. Vol. LIV, f. 95.

10.

4th December, 1746.

The board took into consideration the draught of a report upon the six acts passed in Pennsylvania, ordered to be prepared by the minutes of Tuesday last, which being agreed to was ordered to be transcribed.

R. PLUMMER.

Board of Trade Journal. Vol. LIV, f. 99.

11.

5th December, 1746.

The draught of the report mentioned in the preceding minute having been transcribed, was laid before the board and signed.

Board of Trade Journal. Vol. LIV, f. 99.

12.

5th December, 1746.

Report to the Lords of the Committee of Council upon six acts of Pennsylvania proposing the confirmation of five of them and the repeal of one of them, and of three former acts that had never been presented to the Crown for approbation, as they ought to have been by their charter.

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council.

My Lords:

We have had under our consideration six acts passed in the province of Pennsylvania in February, 1742-43, referred to us by your Lordships' order of the seventh of August last.

We have also consulted Mr. Fane, one of His Majesty's counsel-at-law, upon the said acts, who has no objection thereto in point of law; but we must take leave to acquaint your Lordships that the first of these acts, entitled "An act imposing a duty on persons convicted of heinous crimes brought into this province and not warranted by the laws of Great Britain and

to prevent poor and impotent persons being imported into the same," tends to prevent the introducing of such persons into His Majesty's province of Pennsylvania who either as servants or in any other industrious capacity might be of public utility in the improvement and well peopling of the said province, forasmuch as by this act the masters of all ships importing such persons as shall be adjudged by the magistrates to be poor, impotent, vagrant or otherwise likely to become chargeable are laid under so great difficulties by being obliged to give security for the behavior of such persons and to be answerable for any charges that may thereby be brought upon the said province at any future time (together with many other severe penalties) as amount to a virtual prohibition of their importation, and although there is a clause in this act by which it is provided "That nothing therein contained shall extend or be construed to extend to hinder the importation of such servants or others who by any acts of Parliament of Great Britain or of that part of Great Britain called England can or may be legally imported into the said province," yet as the same does not extend to the persons hereinbefore described or to such as may be imported from other places, the masters of ships importing such persons will not thereby be exempted from the several penalties and restrictions mentioned in the said act, which will probably deter them from importing them into that province, for which reasons we would submit to your Lordships whether His Majesty may not be advised to declare his royal disapprobation of the said act. We must further take leave to acquaint your Lordships that this act does repeal the following acts passed in the said province of Pennsylvania, viz.:

"An act for imposing a duty on persons convicted of heinous crimes and imported into this province as servants or otherwise."

Passed in the year 1722.

"An act laying a duty on foreigners and Irish servants, &c., imported into this province."

Passed in the year 1729.

"An act imposing a duty on persons convicted of heinous

crimes and to prevent poor and impotent persons being imported into the province of Pennsylvania."

Passed in the year 1729.

Which acts have never been laid before His Majesty for his royal approbation or disallowance, and as they render ineffectual the statute of the fourth of his late Majesty, relating to the transportation of felons, &c., and are likewise liable to the same objections as the act now under consideration, we would further submit to your Lordships whether His Majesty may not be graciously pleased to declare his disapprobation of the said acts.

The five following acts relate to the private economy of the province, and we see no reason why His Majesty may not be graciously pleased to confirm them, viz.:

"An act for the more easy and speedy recovery of small debts."

"An act for continuing and amending an act of assembly, entitled 'A supplement to the act for the electing members of assembly.'"

"An act for vesting the Province Island and the buildings thereon erected and to be erected in trustees for providing an hospital for such sick passengers as shall be imported into this province and to prevent the spreading of infectious distempers."

"An act for the more easy recovery of legacies within this province."

With respect to the following act, entitled "An act for naturalizing such foreign Protestants as are settled or shall settle within this province, who, not being of the people called Quakers, do conscientiously refuse the taking of any oath."

We must acquaint your Lordships that by an act of Parliament passed in the thirteenth year of his present Majesty, entitled "An act for naturalizing such foreign Protestants and others therein mentioned as are settled or shall settle in any of His Majesty's colonies in America," it is declared that all persons born out of the ligeance of His Majesty, his heirs or successors, who have inhabited or resided or shall inhabit or reside for the space of seven years or more in any of His Majesty's col-

A BILL FOR THE BETTER REGULATING THE NIGHTLY WATCH. &c.

Whereas the well-ordering and regulating a watch in the night-time within the city of Philadelphia is of very great importance for the preservation of the persons and properties of the inhabitants and very necessary to prevent fires, murders, burglaries, robberies and other outrages and disorders; and whereas by the laws now in being no effectual provision is made for the establishing, ordering or well-governing of such a nightly watch or for levying and collecting any sums of money for defraying the necessary charges thereof and of the watchmen and other officers who shall be appointed to take care of the same; for the effecting of which good purposes for the future and to the end that a due application and just account may be had and taken of the money which shall hereafter be levied and collected by virtue of this act for the purposes aforesaid, may it please the governor, at the humble petition and desire of the mayor and commonalty of the city of Philadelphia in common council assembled, that it may be enacted:

And be it enacted by the Honorable George Thomas, Esquire, with the King's approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That the mayor and commonalty of the city of Philadelphia in common council assembled shall and they are hereby empowered and required, between the first day of July and the tenth day of the same month in the year of our Lord 1743, and so in every year ensuing, between the first day of July and the tenth day of the same month in each succeeding year forever, to order, appoint, hire and employ what number of watchmen they shall judge necessary and proper for one whole year, and shall then and there direct and order what wages shall be given them, at what stands it is fit for the said watchmen to be placed and in what manner and how often they shall be required to go

said constables shall in their several turns or courses of watching use their best endeavors to prevent fires, murders, burglaries, robberies and other outrages and disorders, and to that end shall and they are hereby empowered and required to arrest and apprehend all night-walkers, malefactors and suspected persons who shall be found wandering or misbehaving themselves, and shall carry the person or persons who shall be so apprehended as soon as conveniently may be before one or more justice or justices of the peace of and for the said city to be examined and dealt with according to law, and shall twice or oftener at convenient times in every night go about the several wards of the said city and take notice whether all the watchmen perform their duties in their several stations according to such orders and regulations as shall have been made for that purpose by the mayor and commonalty of the said city in common council assembled; and in case any such watchman shall misbehave himself or neglect his duty, the said constables or one of them shall as soon as conveniently may be give notice thereof to some justice of the peace of the said city. And the said constables shall observe, execute and perform all such orders and regulations as shall from time to time be made by the mayor and commonalty in common council assembled by virtue of this act as to the said constables pertaineth.

And be it further enacted by the authority aforesaid, That if any of the said constables shall willfully neglect to attend any night in his or their turns to keep watch and ward as aforesaid, or shall not come to keep watch and ward at the respective hours appointed by this act for his and their attendance thereon, or shall depart from or leave keeping watch and ward during the respective hours appointed by this act for keeping the same, or shall neglect to go about the several wards of the said city twice at least in every night of his or their watching for the purposes mentioned in this act, or shall otherwise misbehave himself or themselves or be negligent in the duty prescribed them by this act or which shall be prescribed them by any rules, orders or regulations to be made by the

general sessions of the peace, to be held in July yearly or oftener if need be, with the assistance of the city assessors for the time being or any four of them, shall judge, estimate and determine what sum and sums of money shall be necessary to be raised and levied upon the said city for answering the purposes intended by this act; and that the said assessors or the major part of them shall within six weeks after such estimate is made make an equal rate and assessment upon all and every the person and persons who do or shall hold, occupy or enjoy any house, shop, warehouse, store or other tenement within the said city in proportion to the yearly rent of such house, shop, warehouse, store or other tenement; and in cases where such house, shop, warehouse, store or other tenement shall be in the possession or occupation of the owner or owners thereof, or where the person in possession pays no rent for the same, then the said assessors shall judge and determine how much yearly rent such house, shop, store, warehouse or other tenement may be worth and lay a rate and assessment accordingly; which rates and assessments so to be made as aforesaid shall be paid by the tenants or occupiers of such houses, shops, warehouses, stores or other tenements. And whereas it may sometimes happen that houses, shops, warehouses, stores and other tenements may be vacant or unlet and no person in possession thereof whereof to demand the rates hereby intended to be laid:

Be it therefore enacted by the authority aforesaid, That where any house, shop, warehouse, store or other tenement shall at the time of making and laying the rates and assessments aforesaid be vacant and unlet, then and in such case the said assessors shall judge and determine how much yearly rent such vacant house, shop, warehouse, store or other tenement shall be worth, and lay a rate and assessment accordingly, which shall be paid by the owner or owners of such vacant house, shop, warehouse, store or other tenement.

And be it further enacted by the authority aforesaid, That the constables of the said city shall bring in returns in writing to the said assessors within five days after notice given them

for that purpose of the names of the tenants and occupiers of all houses, shops, warehouses, stores and other tenements within their respective wards, and an exact and true account of the yearly rents paid or agreed to be paid for the same; and also of all houses, shops, warehouses, stores and other tenements in the occupation of the owner or owners thereof; and an account of the names of the owner or owners of all houses, shops, warehouses, stores and other tenements vacant and unlet, and where such vacant and unlet houses, shops, warehouses, stores and other tenements are situate; and the said constable shall be allowed for that service two pence per pound upon every sum assessed by virtue of this act in their respective wards.

And be it enacted by the authority aforesaid, That the said assessments being equally and impartially laid and made as aforesaid and signed by at least four of the said assessors, and being allowed and confirmed by the mayor, recorder and any two of the aldermen of the said city for the time being under their hands and seals, shall be paid by every person so assessed upon demand made thereof by the collector or collectors, who shall be appointed by the said assessors; or in case they neglect such appointment, then the said collector or collectors shall be appointed by the mayor, recorder or any two aldermen of the said city. And in case any of the said inhabitants, owners or occupiers shall refuse or neglect to pay the sums so rated and assessed upon him, her or them, it shall and may be lawful to and for such collector or collectors, by warrant under the hand and seal of the mayor, recorder or any one of the aldermen of the said city (which warrant the mayor, recorder and aldermen are hereby authorized and required to grant upon oath or affirmation made by the said collector or collectors of the party or parties so refusing or neglecting to pay), to levy the same by distress and sale of the goods and chattels of the person or persons so neglecting or refusing, rendering to him or them the overplus if any be, the reasonable charge of making the said distress and sale being first deducted; and for want of such distress by like warrant to com-

mit the party or parties so neglecting or refusing to the county gaol for the space of one month or until payment thereof.

Provided always, That if any person or persons find themselves aggrieved with such rate or assessment, then and in every such case it shall and may be lawful for the mayor, recorder and aldermen of the said city at their next general quarter-sessions, upon petition of the party, to take such order therein as to them shall appear reasonable, which order shall conclude and bind all parties; and the collector or collectors shall forbear such distress till the same shall be determined in the quarter-sessions as as [sic] aforesaid.

Provided always, That no such assessment or assessments to be made in any one year shall exceed the sum of in the pound upon the yearly rents of houses, shops, warehouses, stores and other tenements in the said city.

And be it further enacted by the authority aforesaid, That the said assessors shall appoint a treasurer in the said city, who shall keep a distinct book containing a particular account of all the rates and assessments made as aforesaid, and also of all disbursements and payments which he shall make by order of the mayor, recorder and any four aldermen of the said city, whose orders to the said treasurers shall be paid and complied with from time to time and shall be sufficient for the payment of such moneys as shall come into his hands from the said collectors for the purposes in this act mentioned. And the said treasurer shall between the first day of July and the tenth day of the same month yearly bring in his accounts and settle and make up the same before the said magistrates and assessors; and the said treasurer shall have for his trouble in the execution of what is required of him by this act as much as the said magistrates and assessors shall agree to allow him. And the said assessors shall be allowed three pence per pound for all sums levied and collected by virtue of this act and no more.

And the said collector or collectors shall have per pound for all sums collected and paid by him or them by virtue of this act and no more.

And be it enacted by the authority aforesaid, That the money which shall be gathered and received by the said collector and collectors by virtue of this act shall be from time to time duly paid to the said treasurer, whose receipts shall be the said collector or collectors' sufficient discharges.

And be it further enacted by the authority aforesaid, That if the said collector or collectors shall refuse or neglect to collect the said assessments or any part thereof, having undertaken to collect the same, or shall refuse or neglect to pay the same or any part thereof unto the said treasurer within three months after the said collector or collectors shall first begin to collect the same, every collector so refusing or neglecting shall forfeit and pay the sum of five pounds, and shall also pay into the hands of the said treasurer all sums of money by him collected and also all the arrearages of such assessments which he or they were appointed to collect, which shall be levied on the said collector or collectors by warrant under the hand of the mayor or recorder for the time being and the seal of the said city, directed to the sheriff, who is hereby empowered and required to execute such warrant upon the goods and chattels of such collector or collectors, and in case goods and chattels sufficient cannot be found, then to imprison such collector or collectors until payment made.

And be it further enacted by the authority aforesaid, That before any treasurer so to be appointed as aforesaid shall enter upon the execution of his office he shall enter into a bond with one or more sufficient sureties to the mayor and commonalty of the city of Philadelphia in the penalty of one thousand pounds for the payment of all moneys which shall come into his hands by virtue of this act, according to the orders and directions of the mayor, recorder and any four aldermen of the said city from time to time, and for the due and faithful performance of his office and of the trust committed to him by this act. And before any collector to be appointed as aforesaid shall enter upon the execution of his office, he shall enter into a bond with one or more sufficient sureties to the mayor and commonalty of the city of Philadelphia in the penalty of double the sum to be by him received or collected for

the due and faithful performance and execution of his office and of the several trusts, matters and things required of him by this act.

And be it further enacted by the authority aforesaid, That all the penalties, fines and forfeitures to become due and payable by virtue of this act not otherwise directed to be levied shall be levied by distress and sale of the offender's goods upon proof made of the offense before the mayor, recorder or any two aldermen of the said city; and where goods sufficient cannot be found, then the party or parties so offending shall be committed to the common gaol, there to remain until payment made. And all fines and forfeitures to be levied by virtue of this act shall be paid and applied in manner following: (That is to say) one moiety thereof to the person or persons who shall inform and prosecute for the same, and the other moiety thereof to the said treasurer, to be by him paid and applied for and towards defraying the charges and expenses of the nightly watch and other charges incident thereto.

Provided always, and it is hereby further enacted by the authority aforesaid, That in case there shall be any deficiency in any one year's rate or assessment so to be made as aforesaid, so that the wages and allowance to watchmen and other incident charges attending the nightly watch cannot be fully satisfied, paid and discharged in that year, then and in such case the deficiency so happening shall be paid out of the next succeeding year's rate and assessment. And if there shall happen to be any surplus money collected by such rates and assessments in any one year, such surplus shall be carried on to the credit of the account of the next year's rate and assessment, and shall be applied to such uses and in such manner as the rates and assessments to be collected as aforesaid are by this act directed to be laid out and applied, provided that no such rate or assessment shall in any one year exceed the sum of _____ in the pound on the yearly rents as aforesaid.

And be it further enacted by the authority aforesaid, That if the inhabitants and freeholders of the said city shall neglect to choose assessors at the time appointed by law, or if the said

assessors when chosen shall neglect or refuse to lay the rates and assessments or to do and execute such other services as by this act are directed to be by them done and performed, that then and in every such case the mayor, recorder and aldermen of the said city for the time being, together with the grand inquest of the said city, may and shall and they are hereby directed and required to perform the respective offices and duties of the said assessors as fully and amply as they the said assessors might or ought to do by virtue of this act.

From a copy in the collection of the Historical Society of Pennsylvania.



INDEX.

	Page.		Page.
A.		ACTION ON THE CASE.	
ABATEMENT.		Damages caused by setting on fire	
Of duty on negroes exported,	55	woods, marshes, &c., to be re-	
ABATEMENT OF LEGACIES. See De-		covered by,	281
cedent's Estates.			
ACCESSARY.		ACTIONS.	
Extra duty to be paid on importa-		Pending in Chester county not to be	
tion of negro transported for be-		discontinued by erection of Lan-	
ing,	60	caster county,	134
To forging or counterfeiting bills of			
credit to be punished with pillory,		ACTS OF ASSEMBLY.	
whipping, and fine,	112-13	Repeal of certain, or parts of, 25-6, 29,	
If offender unable to pay fine to be		34, 120, 170, 183, 218, 232, 234, 257, 265,	
sold into servitude for seven years, 113		281, 336, 369	
ACCOUNT RENDER.		To prevent swine from running at	
Legacy to be recovered by,	388	large extended throughout pro-	
ACTION OF DEBT.		vince,	123
Act for the more easy and speedy		Continuing a ferry from Kirkbride's	
recovery of small debts not to ex-		landing place over Delaware River	
tend to,	296	at the falls to be in force for	
Penalty for sale of liquors by col-		eleven years,	130
lector of internal revenue or his		Imposing internal revenue tax on	
deputy to be recovered by,	318, 405	liquors to be given in evidence	
Penalty for neglect or misbehavior		under the general issue in suits	
of constables or overseers of the		and prosecutions for acts done	
poor in presiding over nomination		under it,	162, 236-47
of inspectors of elections and for		Persons not actually prisoners not	
neglect of inspectors to attend		entitled to claim benefit of, for re-	
elections recoverable by,	335-36	lief of insolvent debtors,	211-12
For rent, not to be tried before jus-		Unmarried persons under forty, in-	
tice of the peace,	344, 375	debted less than forty pounds, not	
Upon bonds for performance of		entitled to benefit of, for relief of	
covenants, not to be tried before		insolvent debtors,	212
justice of the peace,	344, 375	Act about arrests and making debt-	
Penalty for neglect of duty by col-		ors pay by servitude revived as to	
lector of tariff on convicts, or his		certain purposes,	213
deputies to be recovered by,	368	Persons not resident within the pro-	
Sums due by trustees of Province Is-		vince for two years not entitled to	
land to treasurer to be recovered		the benefit of the, for the relief of	
by,	385	insolvent debtors,	213
Legacy to be recovered by,	388	Repeal of act establishing courts of	
		judicature not to affect suits pend-	
		ing,	230

Index.

528

	Page.		Page.
ACTS OF ASSEMBLY.—Continued.		AFFIRMATION. See Oath.	
Duration of certain, limited, ..234, 296,		Of allegiance by others than Quakers conscientiously opposed to taking oath to be equivalent to oath of abjuration,	393
303, 319, 326, 336, 344, 375, 391, 406-07		Aliens making, of allegiance to be deemed the king's natural born subjects,	393
All laws, ordinances and, of Pennsylvania adjudged void by the Crown, though not declared void under the privy seal according to the terms of the charter, to be deemed and taken as null and void, 260		Judges of the supreme court to administer,	393
In suits and prosecutions for things done in pursuance of act laying an excise on wine, &c., act to be given in evidence under the general issue,	317	Names of persons making, to be recorded and sent to commissioners of trade and plantations,	393
Act for collection of proprietaries' quit-rents not repealed except as altered by supplement,	325-26	Fee for taking,	394
Act for ascertaining the number of members of assembly and to regulate elections, not repealed, except as altered or supplied by act, ..336, 381		ALDERMEN. See Philadelphia, City of.	
Act for reprinting, exchanging and re-emitting all the bills of credit of the province to be taken as a public act, and courts to take judicial notice thereof,	359	ALIENS.	
Act for laying an excise on wine, &c., to be given in evidence in suits and prosecutions for things done in pursuance of it, under the plea of the general issue,	404	Certain, naturalized, ..58-9, 149-50, 221, 284-85, 330	
Act for new appointment of trustees of the general loan office of Pennsylvania, &c., passed May 26, 1744, to be taken as a public act and to be judicially noticed,	415	Granted rights of natural-born citizens,	58-9
ADMINISTRATOR. See Decedents' Estates.		Over sixteen to take oath of allegiance and abjuration within forty-eight hours after entering province,	135
May sell goods of intestate at public vendue without license,	145	Fee for administering oath,	135
May be sued for legacies due,388-99		Neglecting or refusing to be bound over to appear at next court of quarter sessions,	135-36
Not to be sued until after demand made, and refunding offered,	390	All, coming into the province to pay a duty of forty shillings each,	136
If in default to be liable for costs of suit,	390	Persons importing Irish servants or redemptioners to pay for them a duty of twenty shillings each, ...	136
To be allowed one year to make payment of legacies if no time provided in will,	391	Persons importing, to make entry thereof under penalty,	136
ADULTERY.		Justices to have same powers as to execution of acts as those vested in them by prior act for imposing a duty on persons convicted of heinous crimes,	136-37
Of negro and white person, penalty for,	63	Found within province within twelve months after being imported to be arrested and examined upon oath or affirmation before any justice of the peace or magistrate as to the manner of their coming into the province,	137
		If it appears that the, took their passage for Pennsylvania, magistrates to require them to take oath and pay duty,	137-38

Page.	Page.
ALIENS.—Continued.	APPEAL. See County Rates and Levies.
Magistrates authorized to send for and examine upon oath masters and merchants of vessels in which such are supposed to have been imported concerning their importation, 138	From assessment of county rates and levies, 17
If it appears that such have been landed elsewhere with intent to evade act, masters and merchants to be bound over to appear at the next quarter-sessions; and upon conviction shall forfeit twenty pounds for each person so imported, 138	From the supreme court to the Crown regulated, 89
Forfeiture, how recoverable, 138	Appellant to pay costs and give bond to prosecute, 89-90
Application of forfeiture, 138	From judgment of justices convicting person charged with erecting dams or weirs in the Schuylkill, to lie to quarter-sessions, 195
Masters and merchants to also pay duty for each person so imported, 138	Execution to be stayed until, is determined, 195
Masters, importers or owners of vagrant and impotent persons to be proceeded against by justices of the peace as in the case of vagrant in England, 139	To quarter-sessions to lie from orders of justices with regard to imported vagrants, 167
Persons aggrieved by order of justices may traverse same upon giving recognizance, 139	Judgment of quarter-sessions to be final, 168
Charles Reed, of Philadelphia, appointed collector of duty on, 139	To lie to common pleas from judgment of magistrates imposing penalties for violation of the act regulating the construction of coopers' shops and bake-houses in Philadelphia, 216
Powers of collector, ... 140	From judgment of justice of the peace to lie to common pleas, .. 294, 341, 373
Duties collected to be paid to provincial treasurer, 140	No, from judgment entered on report of auditors or referees, 294
Ten per cent. to be deducted for commission, 140	Appellant to give recognizance to prosecute, 294
In case of death or removal of collector, provincial treasurer to appoint another until assembly appoints successor, 140	Transcript record of suit before justice to be sent to prothonotary on, 294, 341, 373
Conscientiously opposed to taking oath to be deemed naturalized in making affirmation of allegiance, 393	Proceedings on, 294, 342, 374
Names of persons making affirmation to be recorded and sent to commissioners of trade and plantations, 393	If appellant default, judgment of justice to be affirmed and execution awarded, 294
ALLEGIANCE.	If parties appear and plead, suit to be heard and decided as other causes, 295
Affirmation of, 393	If either party fail to plead, nonsuit or judgment by default to be entered, 295
ALMSHOUSE. See Philadelphia.	Costs of, to be only two-thirds regular costs, 295, 342, 374
Religious societies may purchase land for, 210	Justices who heard cause below not to sit on, 295, 342, 374
	APPEARANCE.
	Judgment by default may be entered against defendant for want of, .. 27-8

	Page.		Page.
ARREST.		AUCTIONS.—Continued.	
Certain freeholders not liable to, in civil actions,	27	Offender to be arrested and bound over to the next quarter sessions,	145
Exceptions,	28	Sale at, by person so bound over without license, a breach of good behavior,	145
When writ of freeholder may be issued against,	28	Act not to extend to judicial sales, sales of distress for rent or of goods of decedents,	145
Freeholder wrongfully arrested, writ to be abated with costs,	28-9		
Costs of, recoverable by attachment,	29	AUCTIONEER.	
Penalty for violation,	29	In Philadelphia to be licensed,	144
Penalty how recoverable,	29	License to be granted by governor on recommendation of mayor, recorder and aldermen,	144
ASSAULT AND BATTERY.		AUDIT.	
Act for the more easy and speedy recovery of small debts not to extend to actions of trespass for, ..	296	Of account of trustees of loan office regulated,	49
Actions for, not to be tried before justice of the peace,	344, 375	AUDITORS.	
ASSEMBLY. See General Assembly.		Suits brought before justice of the peace may be heard by,	292
ASSESSMENT. See County Rates and Levies.		Justice to enter judgment on report of,	292
ASSESSORS. See Bucks County.		Judgment of justice to be final, ..	293
ASSIGNMENT FOR BENEFIT OF CREDITORS. See Insolvents.		Justice of the peace to appoint, to hear cause,	340, 371
ATTACHMENT.		To be appointed on plea of want of assets to pay legacies to examine accounts of executors and administrators,	389
Orders in summary proceedings to punish public officers for extortion to be enforced by,	181-82	Court to issue execution on report of, for proportion of legacy justly due,	389
ATTORNEYS AT LAW.		On exception to report court to correct errors thereon,	389-90
Penalty for violation by, act of exempting freeholders from arrest, ..	29		
Penalty, how recoverable,	29	B.	
To be admitted by court of common pleas,	95	BAIL.	
To take oath,	95	Not to be taken for offender against act regulating the sale of liquors near the iron-works,	66
Form of oath,	95	For stay of execution in suits before justice of the peace,	341, 372
Penalty for misbehavior,	95		
May practice in all courts,	95	BAILIFF.	
Must file warrant of attorney,	95	Not to practice extortion upon prisoners or persons arrested,	179
Penalty for neglect,	95	To permit prisoners to send for food and drink,	180
AUCTIONS. See Vendue.			
No one to sell goods at, without license in Philadelphia,	144		
Penalty for violation,	144		
Application of penalty,	144		
License to be granted by the governor on recommendation of mayor, recorder and aldermen of the city, ..	144		
License to give security,	144		

	Page.		Page.
BAILIFF.—Continued.		BAKERS.—Continued.	
Violation of act to be punished by summary proceedings,181-82		Penalty for fraud in packing bread or for delivering fraudulent invoice, 251	
Orders therein to be enforced by attachment, 182		Baker to have weights and measures examined and stamped every three years, 255	
BAKE-HOUSES.		Penalties, how recoverable, 255	
How shall be built in Philadelphia,215-16		Application of penalties, 256	
Baking not to be carried on in houses otherwise built, 215		BALLOTS. See Elections.	
Penalty for baking in other buildings, 216		For assemblymen, for sheriffs and coroners, and for commissioners and assessors to be distinct, 11	
Penalties, how recoverable, 216		BANNS. See Marriage.	
Application of penalty, 216		BARRELS See Cask.	
Appeal to be from judgment imposing penalty to common pleas, 216		BEEF.	
Judgment of common pleas to be final, 216		Designed for exportation to be sound meat and well packed with salt and pickle, 74	
BAKERS.		No, to be exported before inspection, 74	
To provide a brand-mark,4, 249		If found merchantable, cask to be branded with provincial brand-mark, 74	
To brand every cask of biscuit, &c., 4, 249		In case of dispute, application to be made to a magistrate, 74	
To enter brand-mark with clerk of quarter-sessions, 4		Magistrate to appoint inquest of two indifferent judicious persons, 74	
On removal to enter brand-mark with clerk of quarter-sessions of county of removal,4, 249		Inquest to view and report, 74	
Case for holding brand-mark,4, 249		If found unmerchantable, magistrate to order it not to be exported under pain of forfeiture, and order owners of, to pay inspector five shillings per cask with costs, 75	
Penalty for neglect,4, 249		If found merchantable inspector to pay costs, 75	
Penalty, how recoverable, 8		Penalty for shipping casks of, not branded, 75	
Application of penalty, 8		BEER. See Liquors.	
Not to carry on trade in Philadelphia except in buildings constructed in a certain manner, 215		BENEFIT OF CLERGY.	
Penalty for baking in other buildings, 216		Persons convicted of forging, counterfeiting or uttering forged or counterfeited bills of credit not to be allowed, 358	
Penalty, how recoverable, 216		BILL. See Action of Debt.	
Application of penalty, 216		Fines and forfeitures to be recovered by,8, 34, 53, 64	
Brand-mark, name and place of abode to be entered with clerk of quarter-sessions, 249			
Manner of packing bread regulated, 250			
Penalty for neglect, 250			
Correct tare to be marked on cask, 250			
Penalty for marking false tare, 250			
Invoice of contents to be delivered with bread, 250			
Neglect, penalty for, 250			
Penalty for invoicing bread at more than its weight,250-51			

BILLS.—Continued.

	Page.
Fines and forfeitures accruing under act to regulate the exporting of beef and pork recoverable by,	77
Value of negroes illegally imported to be recovered by,	125
Penalties under act establishing a ferry at Kirkbride's landing place to be recovered by,	130
Penalties for importing aliens without paying duty recovered by, ...	138
Penalty for hawking or peddling without license to be recovered by, ..	142
Penalty for illegal publication of banns or celebration of marriage to be recovered by,	154
Penalty for landing passengers without permit, to be recovered by, ..	169, 366
Penalty for illegally exercising office of sheriff or under-sheriff to be recovered by,	214
Penalty for sale of liquors by collector of internal revenue or his deputy to be recovered by, ..	248, 318
Penalties imposed by act to prevent the exportation of bread and flour not merchantable to be recovered by,	255
Penalty for sale of flour by inspector or deputies for Philadelphia to be recovered by,	256
Penalty for neglect of duty by collector of tariff on convicts or his deputies to be recovered by,	368

BILLS OF CREDIT.

To be received in payment of county taxes,	18
Yearly quotas and principal sums or parts thereof, paid in before January 16, 1731, not to be sunk or destroyed,	39
Trustees not to be liable for failure to sink or destroy as directed by preceding acts,	39
Not to be sunk or destroyed otherwise than as appointed by act, ..	39
Parts of former acts contrary hereto repealed,	39
Yearly quotas and principal sums paid in to be re-emitted,	40

BILLS OF CREDIT.—Continued.

	Page.
Provincial and county treasurers and mayor of Philadelphia to pay over sums received in, to trustees of loan office,	40
Trustees to give receipts therefor, ..	40
Receipts to be a sufficient discharge, ..	40
Quotas and sums paid in, on re-emissions before January 16, 1731, to be again re-emitted,	40
All sums paid in, before January 16, 1731, to be re-emitted,	40
Re-emitted, to be loaned out on security of real estate,	40
Limitation of loan,	40
Nature of security,	41
Trustees of loan-office to take mortgage deeds of lands,	41
Effect of mortgage deeds,	41
Effect of words "grant, bargain and sell" in mortgage,	41
Bond and warrant of attorney to be given by mortgagor,	42
Oath or affirmation of mortgagor to be endorsed on mortgage-deed,	42
Trustees of loan office to administer oath or affirmation,	42
Mortgage deeds to be recorded,	42
When recorded, to be evidence of mortgage,	42
Receipt for each payment of mortgage money to be endorsed on deed,	43
On full payment mortgage to be released and delivered,	43
Time of release to be entered on margin of record,	43
Fee for entering discharge,	43
Attested copy of record of satisfaction to be equivalent to reconveyance,	43
Mortgages to hold mortgaged premises until default,	43
Remedies of trustees in case of default,	43
Ten thousand pounds to be issued in new,	44
To be issued in originals and counterparts,	44
Costs of printing to be at charge of province,	44
Denomination of bills, ...	44, 203-3, 346

	Page.
BILLS OF CREDIT.—Continued.	
Successors to have powers of original trustees,	101
Style and powers of trustees,	101-2
Duties of trustees,	102
Salary of trustees,	102
Trustees to give bond to provincial treasurer,	102
To take oath before justice of the peace,	102
Form of oath,	103
Trustees to receive, from signers, ...	103
To keep accounts of, received and issued,	103
Auditing committee to have access to accounts,	103
Trustees to lend out twenty-six thousand pounds in, on land security at five per cent.,	103
Limitation of loans,	103
Bills to be legal tender,	103-4
Trustees empowered to search and copy records for incumbrances,...	104
To ascertain value of lands offered as security,	104
Clear value of lands to be double, clear value of houses treble, the value of the loan,	104
Borrower to have indefeasible estate in fee-simple free from all incumbrances but rents,	104
Trustees to ascertain clear value of rents before loaning,	105
Borrower to make oath or affirmation that he is seized of land in his own right, and that it is free from all incumbrances but rents,	105
Oath to be endorsed on back of mortgage,	105
Fees of clerk for endorsing oath, ..	105
Trustees to take mortgages for sums loaned,	105
Effect of words "grant, bargain and sell" in mortgages,	106
Trustees to give receipt to mortgagor for evidences of title left with them,	106
Mortgages to be recorded,	106
Attested copy to be evidence of mortgage,	106
Mortgage deeds to be safely kept by trustees apart from records,	106-7

	Page.
BILLS OF CREDIT.—Continued.	
Record books to be provided by trustees,	107
Trustees to employ clerk,	107
Fees of clerk,	107
Fees to be paid by mortgagor,	107
Bond in double the amount to be executed with mortgage,	107
Warrant of attorney to confess judgment in case of default to be signed and sealed by mortgager, ..	107
Release of errors to be inserted in warrant,	108
Fees of clerk for preparing bond and warrant,	108
Clerk to take oath before justice of the peace,	108
Form of oath,	108
Loans to be repaid in, or other legal tender,	108
Manner of repayment,	108-9
Trustees to endorse payments on back of mortgage,	108
Fees for endorsing payments on counterpart,	109
Mortgage to be discharged on last payment,	109
Mortgage and title-deeds to be delivered to mortgagor,	109
Trustees to enter discharge on record of mortgage,	109
Fees for entering discharge,	109
Attested copy of discharge to be equivalent to reconveyance of mortgaged premises,	109
Mortgagors to hold mortgaged premises until default,	109
On default, trustees to proceed at law or to seize and sell mortgaged premises according to conditions of deed,	109
Surplus to be paid to owner,	110
Lands not to be restored on reversal of judgment,	110
Purchaser not to acquire any greater estate than warranted by mortgage,	110
May be loaned at interest on security of plate,	110
Plate to be sold on default,	110
Surplus to be returned to owner, ...	110

BILLS OF CREDIT.—Continued.

	Page.
Signers appointed,	205
In case of incapacity or death assembly to appoint others,	205
Signers to take oath to duly perform their duties,	205
Method of signing,	205
Signers to keep account of, signed,	206
Compensation of,	206
When all, issued under act are sunk and destroyed, trustees to be discharged from liability therefor, ..	206
Three hundred pounds in, to be delivered to the treasurer of Lancaster county for erection of the court house and prison therein,	207
To be sunk by tax levied,	208
Securities for loans of, to be so arranged that the annual quotas and payments shall fall due on October 15, annually,	208
Proprietaries' quit-rents to be payable in,	323
To be printed the value of eighty thousand pounds,	345
Form of,	346
To be signed by certain persons named,	347
Oaths of signers,	347
Trustees to deliver, to signers in lots of one thousand, and recover them again,	347
Signers to keep account of, signed and numbered,	347
Fees of signers,	347
If signer die or become incapacitated assembly to appoint another,	348
Trustees of loan office to attend at office every Wednesday to exchange new, for old,	348
Old, to be kept as vouchers,	348
Auditing committee to inspect and destroy them,	348
Fees of trustees for exchanging, ...	348
Old, to be void after August 10, 1740,	348
New bills to be legal tender, after August 10, 1739,	348
Trustees of loan office authorized to take, hold and enjoy and dispose of property mortgaged to secure loans of,	349

BILLS OF CREDIT.—Continued.

	Page.
Trustees to loan out certain sums in, in security of mortgage or plate,	350
Trustees to examine title of premises offered as security before loaning,	351
Interest on mortgage to be five per cent,	351
Mortgages may be renewed if deemed sufficient security,	351
Mortgage may be paid off at any time before sale of premises,	352
May be loaned for security of plate,	355
Fees of trustees of loan office to be paid in,	356
All, received in payment of mortgages and interest after October 15, 1749, to be sunk and destroyed by auditing committee of assembly,	356
Counterfeiting or forging or uttering forged or counterfeited, to be punished by death,	358
Raising, or uttering raised bills to be punished by sentence to the pillory, lashes and fine,	358
Counterfeit, to be delivered to the trustees of the loan office, used in evidence in the trial of the offender and burned,	359
Act to be taken as public,	359
Ten thousand pounds to be issued in new,	411
Form and denomination of,	412
To be signed by certain persons appointed,	412
Oaths of signers,	412
To be delivered to signers by trustees of the loan office in parcels of one thousand pounds each,	413
Account to be kept by signers of, delivered,	413
Receipt of trustees to discharge signers,	413
Fees of signers,	413
If signers die, refuse to act or become incapacitated, assembly to appoint others,	413
New, to be exchanged for torn, ragged and defaced ones,	414

	Page.
BILLS OF CREDIT.—Continued.	
Old, received in exchange to be kept as vouchers,	414
Old, to be destroyed by auditing committee of assembly,	414
Fees of trustees for exchanging,	414
New, to be legal tender,	414
Penalty for forging or counterfeiting new, to be the same as directed by former act,	414
Act authorizing new issues of, to be taken as public act and judicial notice to be taken thereof,	415
BISCUIT. See Bakers; Bread.	
Casks to be branded,	4
Penalty for neglect,	4
Penalty, how recoverable,	8
Application of penalty,	8
BOLTERS.	
To provide a brand-mark,	4, 249
To brand every cask of flour, &c., 4, 249	
To enter brand-mark with clerk of quarter-sessions,	4
On removal to enter brand-mark with clerk of quarter-sessions of county of removal,	4, 249
Penalty for neglect,	4, 249
Penalty for packing flour contrary to requirements of act,	4
To be liable to owner for price and costs paid to inspector,	5
Penalties, how recoverable,	8
Application of penalties,	8
To enter brand-mark, name and place of abode with clerk of quarter-sessions,	249
Fee for recording brand-mark,	249
Penalty for failure to enter brand-mark,	249
Manner of bolting and packing flour, 250	
Penalty for failure to conform thereto,	250
To mark correct tare on cask,	250
Penalty for marking wrong tare, ...	250
Invoice of contents to be delivered with cask,	250
Penalty for failure to deliver invoice, 250	
Penalty for invoicing flour at more than its weight,	250-51

	Page.
BOLTERS.—Continued.	
Penalty for frauds in packing flour or for making fraudulent invoice, 251	
Charges of examination of unmerchanted flour to be recovered of, 252	
Penalty for bolting undried meal, 254-55	
To have weights and measures examined and stamped every three years,	255
Penalties, how recoverable,	255
Application of penalties,	256
BOND.	
Of county treasurers,	24
Of trustees of the loan office,47-8, 102, 201, 207, 350, 408	
Of clerk of trustees of the loan office,	50
Of collector of duty on negroes, 56, 128	
Of hawkers and peddlers to be filed in the office of prothonotary of county court,	142
To have one surety,	142
Penalty of such,	142
Of vendue-master of Philadelphia, ..	144
Of venders of liquors to be payable to provincial treasurer and delivered to collector of excise,	158
Of collectors of excise, condition and penalty,	160, 400
To be given for good behavior of imported convict,	164
Refunding bond of legatee,	390
If not accepted to be filed with clerk of court, before suit is brought, ..	390
Mortgage for sums loaned by trustees of the loan office to be accompanied by,	353-54
BOND AND WARRANT. See Mortgages.	
BOUNTY.	
For killing wolves,	15, 121
For killing foxes,	15
For killing crows,	15
Heads of wolves and foxes to be produced before justice of the peace,	15
Justice to examine claimant,	15
If satisfied, to issue order on county treasurer for,	15

	Page.		Page.
BOUNTY.—Continued.		BRAND-MARK.—Continued.	
Wolves' heads produced by Indians to be attended with proof that the head was seen when green, ..	15	To be entered with clerk of quarter-session,	4, 249
Crows to be produced before justice, ..	15	On removal, to be entered with clerk of quarter-sessions of county of removal,	4, 249
Justice to issue order on county treasurer for,	15	Fee for recording,	4, 249
Account of, to be kept by treasurers, ..	16	Penalty for violation of section I, ..	4
Account to be allowed by commissioners and assessors,	16	Provincial, to be put on casks of flour inspected and found merchantable,	5
Account to be kept by commissioners,	16	Penalty for shipping flour without, ..	6
For raising merchantable hemp, 80, 69, ..	185	Penalty for counterfeiting provincial,	8, 76
To be paid by officer in charge of warehouse on receipt of hemp, ..	30	Penalty for branding cask illegally, ..	8, 76
Former, for raising merchantable hemp repealed,	69	Penalty for second offense,	8, 76
Not to be paid until after inspection by officers,	69	Penalty for third offense,	8, 76
In case of dispute, owner to apply to magistrate,	69-70	Penalties, how recoverable,	8
Magistrate to appoint inquest to view hemp and enter judgment on report of inquest,	70	Application of penalties,	8
Costs of inquest to be paid by owner of hemp,	70	Coopers to have a,	73
Before payments of bounty oath to be administered to owner,	70	To brand each cask therewith,	73
Claimant of, on hemp to make oath or affirmation,	185	To enter, with inspector of beef and pork,	73
On dispute between claimant and inspector, justice of the peace to appoint inquest to examine hemp, ..	186	Fees of inspector for entering,	74
If hemp found unmerchantable, inquest to appraise it and certify fact to justice,	186	Penalty for offenses against act, ..	74
Inspector to give order on treasurer of Philadelphia for appraised value of hemp and deliver the hemp to overseer of the work-house,	186	Inspector to provide provincial, ..	74
One hundred pounds to be paid yearly by the collector of excise to the inspector of hemp to pay bounties,	188	To brand each cask of beef and pork found merchantable,	74
On hemp, abolished,	231-32	Fees for branding,	75
BRAND-MARK. See Bakers; Bolters, Biscuit; Flour.		Penalty for failure to brand cask, ..	249
Bolters and bakers to have a,	4, 249	Penalty for failure to enter,	249
Casks of flour and biscuit to be branded,	4, 249	Notice of, to be delivered with flour or bread under penalty,	250
		BRAND-MARK, PROVINCIAL.	
		To be provided by inspector of beef and pork designed for exportation, ..	74
		Each cask of beef and pork found merchantable to be branded with,	74, 252
		Penalty for counterfeiting,	76
		Penalty for second offense,	76
		Penalty for third offense,	76
		Application of penalties,	77
		Penalties, how recoverable,	77
		Of the respective counties to be distinguishable,	252
		Penalty for shipping flour not branded with,	253
		Penalty for counterfeiting or marking cask with counterfeit,	255
		Penalty for second offense,	255
		Penalty for third offense,	255

BRAND-MARK, PROVINCIAL.—Continued. Page.

- Penalties, how recoverable, 255
 Application of penalties, 256

BRANDY. See Liquors; License; Internal Revenue.

BREAD. See Bakers; Biscuit.

- Penalty for fraudulent packing of, .. 4
 Penalty for fraudulent invoice of net proceeds or weight of, 4
 Penalty, how recoverable, 8
 Application of penalties, 8
 Baker to have private brand-mark and brand each cask of, therewith, 4, 249
 Penalty for neglect, 4, 249
 Before packing cask and to be weighed, 4, 250
 Tare to be marked on cask, 4, 250
 Cask to be well nailed, 250
 Penalty for packing bread in violation of act, 4, 250
 Penalty for marking wrong tare on cask, 250
 On suspicion or request of buyer inspector to unpack cask and try tare, 250
 Charges for so doing by whom to be paid, 250
 Invoice of contents to be delivered with, 250
 Penalty for neglect, 250
 Penalty for invoicing at more than its weight, 250-51
 Penalty for fraud in packing, or for willfully delivering false invoice, 251
 Vehicle or vessel used for carrying, to be provided with sufficient covering, 251
 If, is wet or damaged in transportation, the owner of vehicle or vessel to pay owner of, one shilling per cask damaged, 251
 Penalties, how recoverable, 255
 Application of penalties, 256

BRIDGES.

- Not to be erected so as to impede navigation, 36
 Exceptions, 36
 Site of, how to be selected, 236

BRIDGES.—Continued.

- Building, maintaining and repairing of, regulated, 236

BRISTOL.

- County seat to be moved from, 9

BUCKS, COUNTY OF.

- New court-house and prison to be erected at Newtown, 9
 Trustees appointed to purchase site and erect buildings, 9
 Commissioners and assessors to levy tax to defray expense of purchase of site and erection of buildings, 10
 Courts of quarter-sessions, gaol delivery and common pleas to be held in new court-house, 10
 Provincial and county elections to be held in new court-house, 10
 Salary of clerks of commissioners of, 23
 Bond of treasurer of, 24
 Four inspectors of elections to be chosen for, 78
 Time and place of holding quarter-sessions for, 55
 Time and place of holding common pleas for, 92
 Collector of internal revenue appointed for, 242, 399
 Bond of collector of, 243, 400
 Provincial brand-mark for, 252
 Inspector of bread and flour for, appointed, 253
 Election of commissioners and assessors of, confirmed notwithstanding irregularities therein, 278-80

BURYING-GROUNDS.

- Religious societies may purchase land for, 210

C.**CAPIAS.**

- Process in suits before justice of the peace to be by summons or, 291

CAPIAS AD RESPONDENDUM, WRIT OF. See Arrest.

- Not to issue against certain freeholders in civil actions, 27
 Exceptions, 27

	Page.		Page.
CAPIAS, &c.—Continued.		CHESTER, COUNTY OF.—Continued.	
If freeholder wrongfully arrested, writ to be abated with costs,	28-9	Lancaster county erected out of part of,	131-32
Penalty for violation of act,	29	Collector of internal revenue tax on liquors appointed for,	242, 399
Penalty, how recoverable,	29	Bond of collector of,	243, 400
CAPITAL CRIMES.		Provincial brand-mark for,	252
Negro slave convicted of, to be valued,	60	Inspector of bread and flour for, ...	253
If slave executed, value to be paid to owner by provincial treasurer on order of justices,	60	Offenses against act to more effectually prevent the erecting of weirs, dams, &c., within the river Schuylkill to be laid and prosecuted in,	265
CASKS.		CHESTER CREEK.	
Of flour and biscuit for exportation to be branded,	4	Drawbridge over, to be repaired and maintained,	36
To be marked with tare,	4, 250	Drawbridge to be raised and lowered carefully under penalty,	36
To be weighed,	4, 250	CHIEF JUSTICE.	
Penalty for neglect,	4	Of supreme court to be appointed and commissioned by the governor, ..	88
Penalty, how recoverable,	8	To attest writs issued from the supreme court,	90
Application of penalty,	8	CHURCHES.	
For exportation of beef and pork to be made of sound white oak timber,	73	Religious societies may purchase land for,	210
Barrels to contain thirty-one and a half gallons wine measure,	73	CIDER. See Liquors.	
Half-barrel to contain sixteen gallons,	73	CITIZENS.	
To be branded,	73	Certain aliens granted rights of, ...	58-9
For packing flour and bread for exportation, how made and packed,	250	CITY OF PHILADELPHIA. See Philadelphia, City of.	
After inspection to be branded with provincial brand-mark,	252	CITY TAXES. See Taxes, City.	
CERTIORARI, WRIT OF.		CIVIL RIGHTS.	
To be issued by judges of the supreme court,	88	Conferred upon certain aliens named,	330
CHAPMEN. See Hawkers; Peddlers.		CLERK OF COUNTY COURT.	
CHESTER, COUNTY OF.		To enter memorandum of election of poundkeeper and location of pound on record of court,	116
Salary of clerk of commissioners, regulated,	23	To affix notice thereof on door of court-house,	116-17
Bond of treasurer of, regulated, ..	24	Account of marks, &c., of strays impounded to be sent to,	117
Commissioners to repair and keep in repair drawbridge over Chester creek,	36	To be posted in his office,	117
Four inspectors of election to be chosen for,	78	Fee for filing certificate of poundkeeper,	118
Time and place for holding quarter- sessions for,	85		
Time and place for holding common pleas for,	92		

	Page.		Page.
CLERK OF COURT.		CLERK OF THE TRUSTEES OF THE	
Penalty for violation by, of law ex-		LOAN OFFICE.—Continued.	
empting freeholders from arrest, 29		Successor to hold office until assem-	
Recoverable in the supreme court, 29		bly appoints another in his stead, 50	
CLERK OF COURT OF QUARTER-		Fees of,50, 105, 108, 357	
SESSIONS.		To give bond, 50	
Fees, regulated,4, 72, 153-59		To take oath or affirmation, 50, 108, 357	
Penalty for neglect by, to enter		Form of oath,50, 108, 357-58	
brand-mark, 249		To be chosen by trustees, 107, 193, 307,	
CLERK OF SUPREME COURT. See		357, 410	
Prothonotary.		To be appointed by trustees, 410	
CLERK OF THE MARKET.		Trustees to be answerable for his	
In Philadelphia to sue for penalties		behavior, 410	
for carrying on the trade of cooper		Qualifications of, 410	
or baker in houses not built ac-			
cording to law, 216		COHABITATION.	
CLERK OF THE TAX COMMISSION-		Of white person with negro, penalty	
ERS.		for,62-3	
To deliver duplicate assessments to		COLLECTOR OF DUTY ON ALIENS.	
commissioners and collectors, 16		See Aliens.	
To give five days' notice to parties		COLLECTOR OF DUTY ON CONVICTS.	
to appear and object to rectified		Appointed in place of deceased col-	
assessment, 17		lector, 320	
To deliver duplicates of rectified as-		New, to qualify by taking oath or	
sessments to county treasurer and col-		affirmation, 320	
lectors, 17		Vacancies in office of, how filled, .. 321	
Fees of, 23		Successor to qualify by taking oath	
Commissioners to fine, for neglect of		or affirmation, 321	
duty, 23		To arrest and examine convicts	
In case of neglect or death com-		found illegally in the province	
missioners to appoint new, 23		within twelve months after their	
Suits or prosecutions for neglect in		arrival, 361	
executing act to be barred after		To receive one-half thereof, 361	
twelve months,23-4		To receive one-half of the penalty	
Proceedings against delinquents not		for illegally landing convicts, pas-	
to be stayed by nolle prosequi, .. 24		sengers,363, 366	
Fines and forfeitures arising under		Account of the passengers imported	
act not to be released without		to be made to, within forty-eight	
payment, 24		hours after arrival, 364	
CLERK OF THE TRUSTEES OF THE		To enter account and transmit it	
LOAN OFFICE.		to magistrates, 364	
To submit lists of securities annu-		Fees of, for making entry, 365	
ally to assembly, 49		Fees of, for taking bond, 365	
Charles Brockden appointed, 50		Appointed, 367	
Duties of,50, 107, 307, 357		Powers and duties of, and deputies, 367	
In case of removal or death trustees		Penalty for obstructing or resist-	
to appoint successor, 50		ing, or deputies, 367	
		Application of penalty, 368	
		Penalty for neglect of duty by, 368	

COLLECTOR OF DUTY ON NEGROES.

	Page.
To enter accounts of masters of vessels and others importing negroes, ..	53
On security being given for duty, ..	53
To have power to search vessels and houses, for negroes,	54
To call on officers for assistance, ..	54
And officers to have all powers of collectors of customs in Great Britain,	54
To take security from masters of vessels remaining twenty-four hours,	54-5
Fee of, on abatement of duty on exported negroes,	55
To take security from settlers importing negroes for their own service,	54-5
Charles Read appointed,	55
Powers of,	55
To keep accounts,	56
To lay them before provincial treasurer,	56
To pay over duties received,	56
Fees and commissions of,	56
To take oath,	56
To give bond to provincial treasurer,	56
On death or removal of, provincial treasurer to appoint successor, ...	56
To proceed as directed by former act,	60
To notify justices of accounts received of negroes imported,	60

COLLECTORS OF DUTY ON NEGROES.

To record entry of negroes imported and grant permit to land them, ..	124
Fees for permit,	124
To receive duty or security therefor before negroes are permitted to land,	124
Fee for taking security,	124
Collector to receive one-half of value of forfeited negroes if he sues for forfeiture,	125
Powers of collector and deputy, 125, 127	
Public officers required to aid them under penalty,	125
Collector not required to give notice to importers of negroes or to make request for duty,	125

COLLECTORS OF DUTY ON NEGROES.—Continued.

Fees of collector in case negroes die or are exported within six months, 126	
Collector to take security from owners of negroes imported for their own service not to sell same within sixteen months,	126-27
Charles Reed, of Philadelphia, appointed collector,	127
Collector to keep accounts in writing,	127
To submit same to provincial treasurer and to assembly,	127
To pay over sums received to provincial treasurer after deducting commissions, costs and charges,	127
Collector to be sworn and give bond to provincial treasurer,	128
In case of death or removal of, provincial treasurer to appoint another until assembly appoints successor,	128

COLLECTOR OF EXCISE.

Not to grant licenses to sell liquors until recognizance given for observance of excise act,	66
Granting license to sell liquors to persons licensed to sell beer and cider deemed an official misbehavior and a forfeiture of his bond, ..	66
To pay one hundred pounds annually to inspector of hemp to pay bounties,	188

COLLECTOR OF INTERNAL REVENUE.

To receive bonds of licensed vendors of liquor,	158
To receive lists of licensed persons, 158	
To set rates of license, in default of justices,	159
Appointment of,	159
Powers and duties of,	159
To keep accounts and submit them to the provincial treasurer,	159
To pay sums collected to provincial treasurer once every three months, 160	
To give bond to provincial treasurer, 160	
To receive one-half of forfeitures for selling liquor without license if sued by him,	160-61

	Page.
COLLECTOR OF INTERNAL REVENUE.—Continued.	
To have recourse to returns of vendors of liquor made by constables, 162	
Retailers of liquors to enter names and places of abode with, ..239, 309, 395-6	
To grant permit to sell liquors subject to internal revenue tax, 239, 309, 396	
Fee for granting permit, ..239, 309, 396	
No permit to be granted for a less rate than three pounds per annum,239, 396	
Retailers to enter liquors sold with collector every three months, 239-40, 309-10, 396	
To account with, every three months for tax due,240, 310, 396	
To give just account to, of all liquors in their possession,240, 310, 396	
To enter liquors purchased with, ..240, 310, 397	
To give certificate of entry if required,240, 310, 397	
Fee for certificate,240, 310, 397	
Penalty for failure to enter name and place of abode with, 240	
Penalty for failure to make true entries required by act,240-41	
Penalty for second offense, 241	
Penalty for third offense, 241	
And deputies to enter houses, shops, cellars, &c., and seize liquors not truly entered,241, 311	
To enter house, shops, cellars, &c., to gauge liquors,.....241, 311-12, 398	
To break open doors if entrance refused,241, 312, 398	
To call peace officers to their assistance,241, 312, 398	
Penalty for refusing to assist, 241, 312, 398	
To allow fifteen per cent. for leakage and waste, 242	
No duties to be paid for liquors lost by bursting of cask, 242	
Appointed,242, 312, 398-9	
Collectors to appoint deputies and be answerable for them,242, 399	
Powers and duties of collectors, ..242, 312, 399	

	Page.
COLLECTOR OF INTERNAL REVENUE.—Continued.	
Collectors to keep accounts in writing and submit them to the provincial treasurer and the assembly,242, 313, 399	
To pay over sums collected by them to provincial treasurer every three months,242-43, 313, 399	
Commission for collection to be deducted,243, 313, 399	
To be allowed charges incurred, 243, 313	
To give bond to the provincial treasurer,243, 314	
To give notice of commencement of act and duties imposed and notify constables of manner and time of making the entries required, 243, 314	
In case any, refuses to act, provincial treasurer to appoint successor, 244	
On application of, justices of the peace to summon and examine persons on oath as to offenses against act, 245	
Sued for things done in pursuance of act, to give act and special matter in evidence under the general issue,246-47, 317, 404	
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover treble costs, 247, 317, 404	
To have access to returns of vendors of liquors made by constables, .. 247, 317-18	
Distiller to enter sales with, 247	
Or deputies not to sell liquors during continuance of act,248, 318	
Penalty for selling of liquors by, 248, 318	
Penalty, how recoverable,248, 318	
Application of penalty,248, 318-19	
Or deputy convicted of sale of liquors to forfeit office,248, 319	
Provincial treasurer to appoint, instead of person offending until assembly appoints successor, 248, 319, 405	
Tax due to be collected by distress, 311	
One-half of all fines to be deducted, 313	
Refusing or neglecting to collect internal revenue tax to pay all arrearages thereof,313, 400	

	Page.
COLLECTOR OF INTERNAL REVENUE.—Continued.	
Arrearages to be levied by warrant of two magistrates,	313, 400
If sufficient distress not found, collector to be imprisoned until satisfaction is made,	313, 400
May distrain for his own use on persons owing tax without further warrant,	313-14
If collector refuses or neglects to act, misbehaves or dies provincial treasurer to appoint another until assembly appoints successor, 314, 401	
Successor to have powers and be subject to liabilities of predecessor,	314
Provincial treasurer to deliver to, appointed by act of August 25, 1738, a list of all taxes outstanding under former act,	319
To collect same as tax accruing under act and pay them to the provincial treasurer,	319
Taxes over due to be levied by distress and sale of the offenders goods,	397
Liquors falsely entered to be forfeited,	398
Authorized to enter any house, store, cellar, &c., to compare liquors and seize liquors falsely entered,	398
Paying arrearages to distrain on persons from whom the same is due, 400	
To give bond,	400
To give public notice of commencement of act and inform constables of their duties,	400
Distillers to sell own product in quantities of not less than five gallons without paying internal revenue tax on making entry thereof with,	404-05
Their deputies and successors not to trade in liquors during continuance of act,	405
Penalty for trading in liquors by collector or deputy,	405
Penalty how recoverable,	405
Application of penalty,	405
On conviction, or deputy to forfeit office,	405

	Page.
COLLECTOR OF INTERNAL REVENUE.—Continued.	
Sums demanded from excise acts to be recovered by newly appointed, 406	
Provincial treasurer to deliver account of sums yet due to,	406
COLLECTOR OF TAXES. See County Rates and Levies.	
To be appointed by assessors,	16
Duplicates to be delivered to,	16
To demand sums assessed against respective parties,	16
To give notice of day of appeal, ...	16
Notice in case, cannot meet with party,	16
Duplicates to be returned on day of appeal, with names of persons not met, and value of estates concealed, undervalued or omitted in constables' return,	16
Account of sum charged against, to be delivered to county treasurer, 18	
Duplicates of, rectified assessments with warrant to collect, to be delivered to,	18
To receive payment of taxes in money, bills of credit or merchantable wheat,	18
To render to county treasurer an account of moneys, &c., received at least every six weeks,	18
Whole amount of duplicate to be paid within three months after day of appeal,	18
Treasurer to give receipts for amounts paid in,	18
Receipts to be discharged pro tanto, 18	
Treasurer to notify commissioners of amounts paid in by,	18
Treasurer to complain to commissioners of neglect of duty by, ...	18
To distrain for unpaid taxes under warrant from commissioners, ...	18
If no distress can be found, body of delinquent to be seized and imprisoned until payment is made, ...	19
If distress insufficient, imprisonment to be for residue and charges, 19	
Commissioners to fine, for neglect of duty,	19
Commissioners to appoint one other to act in his stead,	19

COLLECTOR OF TAXES.—Continued.	Page.	CONSTABLES.—Continued.	Page.
Commissioners to issue warrant to sheriff to seize body and estate of delinquent,	19	Penalty for neglect,	14
If money due by delinquent be not paid, to issue warrant to sheriff to sell estate,	20	Fees for making return,	14
Proceeds of sale to be paid to commissioners,	20	Return to be laid before commissioners,	14
Money due by delinquent to be satisfied, with damages and charges,	20	To require householders to give account of names, qualifications and estates of sojourners or lodgers, ..	21
Surplus to be returned to delinquent,	20	To assist collector of duty on negroes,	54, 125
Conveyance of real estate so sold to be by sheriff's deed,	20	Penalty for refusal or neglect, ..	54, 125
Title to be absolute against delinquent his heirs and assigns, and all persons claiming under them,	20	To return election of poundkeeper and location of pound to next county court,	116-17
Conveyance by delinquent after delinquency declared fraudulent and void,	21	To return to quarter-sessions lists of negroes imported into their respective townships,	127
If transient freeman or hired servants be not found at place of lodging (unless tax paid), to distrain goods of householder or employer,	21	May sell goods taken in execution at public vendue without license, ..	145
Fees of,	23	To return lists of vendors of liquors to quarter-sessions under penalty,	162, 247, 317, 404
In suits and prosecutions for things done under this act special matter may be given in evidence under the general issue,	23	Required to present offenses against act limiting the killing of deer to a justice of the peace or to the quarter-sessions,	218
If plaintiff or prosecutor become non-suit or suffer discontinuance, or if verdict pass against him, defendant to recover treble costs, ..	23	To assist collector of internal revenue tax,	241, 312
Limitation of action,	24	Penalty for refusal,	241, 312, 398
Proceedings under this act not to be stayed by nolle prosequi,	24	To be notified of time and manner of making entries of liquors,	243
Fines and forfeitures not to be released without payment,	24	Sued or prosecuted for things done under act reviving an excise on wine, &c., to give the act and the special matter in evidence under the general issue,	246-47, 317, 404
COMMERCE. See Cask; Beef; Bread; Flour; Pork; Tariff; Tobacco; Trade.		To recover treble costs if plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him,	247, 317, 404
COMMISSIONERS OF TRADE AND PLANTATIONS, ROYAL.		In each township to appoint place of election of vacancies for inspectors of elections,	332, 377
Names of persons naturalized by making affirmation of allegiance to be sent to,	393	To receive votes of freeholders for inspector, with assistance of two freeholders selected by him, 333, 334,	335
CONSTABLES.		To certify name of person chosen to sheriff or judge of election, 333,	334, 335
To receive and return precepts of assessors,	13		
Contents of return,	13		

	Page.		Page.
CONSTABLES.—Continued.		CONVICTS.—Continued.	
In each ward of Philadelphia, to appoint place of election of nominees for inspector of elections,	333, 378	Act not to hinder importation of servants legalized by the laws of Great Britain,	366
To give notice of time of nomination of inspector of election,	335, 380	COOPERS.	
To attend at time appointed, ...	335, 380	To provide a brand-mark,	73
Penalty for misbehavior or neglect of duty as judge of election,	335, 36, 280	To enter it with inspector of beef and pork,	73
Penalty, how recoverable,	336, 381	To brand each barrel therewith,	73
		Fees for entering brand-mark,	74
		Penalty for offenses against act,	74
		Not to practice trade in Philadelphia except in buildings constructed in a certain manner,	215
CONVICTS.		Penalty for violation,	216
Masters and merchants of vessels on which, were imported to be summoned and examined,	5, 362	Penalty, how recoverable,	216
Persons convicted of felony not to be landed without paying duty, ..	164	Application of penalty,	216
Penalty for illegally landing, ...	166, 366	COOPER SHOPS.	
Penalty for landing without payment of duty,	169	How, shall be built in Philadelphia,	215
Persons importing servants or others convicted of felony to pay duty of five pounds per head and give bond for their good behavior,	360-61, 366	Coopering not to be carried on in buildings otherwise constructed,	215
Landed elsewhere and found in the province within twelve months after their arrival to be arrested and examined before magistrates as to the manner of their importation,	361	Penalty for violation,	216
If magistrate finds that they were shipped for Pennsylvania, to compel them to pay duty,	362	Penalty for second offense,	216
If it appears that, were illegally landed, master or merchant to be bound over to quarter-sessions, ..	362	Penalty for third offense,	216
On conviction offender to forfeit twenty pounds for each, and also pay duty and give security,	362-63	Penalty, how recoverable,	216
Persons importing passengers to give account thereof to collector of tariff,	364	Application of penalty,	216
Collector to transmit account to magistrates,	364	Appeal to common pleas from judgment imposing penalty,	216
Magistrates to examine importers and grant certificate to land passengers,	365	Judgment of common pleas to be final,	216
		CORONER.	
		Election of, regulated,	11
		Ballot for sheriffs and, to be distinct from those for other offices, ..	11
		Return of election of,	12
		To execute warrant of commissioners to seize body and estate of delinquent tax collector,	19
		To execute warrant of commissioners to sell estate of delinquent tax collector,	20
		To execute deeds for real estate so sold,	20
		To execute warrant of justices to seize body or estate of delinquent county tax officer,	22
		To execute warrant of commissioners to seize body or estate of delinquent treasurer,	22

	Page.
CORONER.—Continued.	
To execute warrant of commissioners to seize body or estate of delinquent assessor,	22
To execute warrant of commissioners to seize body or estate of delinquent clerk,	23
Summons to be directed to,	27
COSTS.	
Of inquest to determine quality of flour to be paid by owner of flour condemned, otherwise by inspector,	5
When plaintiff or prosecutor in any suit arising under the act for raising of county rates and levies, shall be liable to treble,	23
For wrongful arrest of freeholder, ..	29
How recoverable,	29
If when a plaintiff or prosecutor in suits under act laying a duty on negroes becomes nonsuit, suffers discontinuance or verdict passes against him, defendant to have treble costs,	56, 128
Of inquest to determine merchantable quality of beef and pork to be paid by owner if beef or pork found unmerchantable, otherwise by inspector,	75
If plaintiff or prosecutor in suits or prosecutions for acts done under internal revenue acts become nonsuit, suffer discontinuance or have verdict against him, to be liable for treble,	162, 247, 317, 404
If plaintiff in suits for official acts done under act for relief of insolvent debtors become nonsuit, suffer discontinuance or verdict or judgment on demurrer pass against him, defendant to have treble costs,	175
Not to be recovered where jury assess less than forty shillings damages in suits for injuries caused by setting woods, marshes, &c., on fire,	282
In cases heard before justice of the peace,	292

	Page.
COSTS.—Continued.	
In cases before justice of the peace, if plaintiff become nonsuit or judgment pass against him, defendant to recover,	293
Of suit appealed from justice of the peace to be two-thirds of regular costs,	295
In suits prosecuted otherwise than directed by act for recovery of small debts, no, to be recovered by plaintiff unless he takes affidavit before obtaining writ that his claim is over five pounds,	295
In suits for small debts, presented before justice of the peace, ...	339, 371
If plaintiff become nonsuit, or judgment pass against him, defendant to have,	341, 373
Of suits appealed to common pleas from justice to be two-thirds of usual costs,	343, 374
If suit be prosecuted elsewhere than before justice, and recovery be less than five pounds, plaintiff not to have,	343, 375
Of suit to recover legacy to be awarded on discretion of court, out of estate of testator or of executor or administrator,	390

COUNTERFEITING.

Of provincial brand-mark, penalty for,	8, 76, 265
Penalty for second offense, ...	8, 76, 265
Penalty for third offense,	8, 76, 265
Penalties, how recoverable,	8, 77
Application of penalty,	8, 77
Of bills of credit, penalty for, 45, 204-5	358
Bills of credit, punishment for, 112-13,	
Offender unable to pay fine, to be sold in servitude for seven years, 113	
Counterfeit bills to be delivered to trustees of the loan office,	113
Such bills to be safely kept and destroyed by auditing committee, ..	113
Counterfeit bills of credit after use as evidence, to be destroyed,	359

	Page.		Page.
COUNTERPARTS. See <i>Bill of Credit</i> .		COUNTY ASSESSORS.—Continued.	
COUNTIES. See <i>Philadelphia County</i> ;		Rate of assessment of single men, ..	14
Bucks County; Chester County.		Limitation of assessment,	14
Each county to be divided into eight		Commissioners and, to allow ac-	
districts or hundreds, for selec-		counts of just debts and demands	
tion of inspectors of elections, ..	332	upon county,	16
COUNTY ASSESSORS.		To divide county into districts,	16
Former to continue in office till ex-		To appoint collector of each district,	16
piration of term,	11	To cause duplicates of assessment	
Election of, regulated,	11	to be made,	16
Ballot for commissioners and, to be		To attend on day of appeal and lay	
distinct from other officers,	11-12	constables' returns and assess-	
Six, to be elected yearly,	12	ments before commissioners,	16
Sheriff to make return of election to		In case of death, refusal, misbehavior	
justices of county,	12	or neglect of commissioner, the	
Return to be recorded in session's		commissioners or, to appoint suc-	
minute-book,	12	cessor,	22
To qualify by taking oath,	12	Commissioners to fine assessors for	
To qualify after commissioners,	12	neglect of duty,	22
Form of oath of,	12	Disposition of fine,	22
Oath to be taken before two or more		Compensation of,	22
justices of the peace of the county		In suits and prosecutions for things	
or of the city of Philadelphia,	12	done under this act, special matter	
Penalty for refusal to administer		to be given in evidence under the	
oath,	12	general issue,	23
Qualifications to be written and		If plaintiff or prosecutor become	
signed, certified by the justices,		nonsuit or suffer discontinuance,	
and filed with return of election, ..	12	or if verdict pass against him,	
To hold over in case of failure to		defendant to recover treble costs, ..	23
elect successors,	12	Limitation of action,	24
Commissioners and, to meet an-		Proceedings for failure or neglect of	
nually,	13	duty not to be stayed by nolle	
Place of meeting,	13	prosequi,	24
To calculate public debts and		Fines and forfeitures arising under	
charges of county,	13	act regulating, not to be released	
To allow all just debts and de-		without payment,	24
mands,	13	Commissioners and, to choose	
To adjust and settle the yearly		county treasurer,	24
levies,	13	In case of death or removal of treas-	
To ascertain sums to be applied		urer, commissioners and, to choose	
to defraying items of public ex-		successor,	24
pense,	13	Treasurer to settle accounts with	
To enforce collection of levies,	13	commissioners and, yearly,	25
Constables to return commissioners'		Compensation of treasurer to be	
precepts to,	13	fixed by commissioners and,	25
Contents of returns,	13	Place of election of, in Lancaster	
To meet and receive returns,	14	county,	133
To ascertain what persons and es-		To levy tax to defray expenses of	
tates are taxable,	14	building court-house and pris-	
To assess all such impartially,	14	on,	133-34

	Page.
COUNTY ASSESSORS.—Continued.	
To present accounts to quarter-sessions,	235
Accounts to be filed,	235
With grand juries and commissioners and with concurrence of judges of the quarter-sessions to be sole judges of the location of bridges,	256
To agree with workmen for building and repairing same,	236
COUNTY COURT. See Court, County.	
COUNTY COMMISSIONERS.	
To continue in office till expiration of term,	11
Election of, regulated,	11-12
Term of office of, regulated,	11, 235
Ballot for, and assessors to be distinct from that for other offices, 11-12	
Sheriff to make return of election to justices of county,	12
Return of election of, to be recorded in sessions minute-book,	12
To qualify by oath or affirmation, ..	12
To qualify before assessors,	12
Form of oath or affirmation of,	12
Oath to be taken before two or more justices of the peace of Philadelphia,	12
Oath or affirmation of, to be written and signed, certified by the justices, and filed with return of election,	12
To hold over, in case of failure to elect successors,	12
And assessors to meet annually, ...	13
Place of meeting,	13
To calculate public debts and charges of county,	13
To allow all just debts and demands, 13	
To adjust and settle the yearly levies,	13
To ascertain sums to be applied to defray items of public expense, ..	13
To enforce collection of taxes,	13
To issue precepts to constables,	13
Constables to make returns to of precepts,	13
Contents of returns,	13
Majority of, and assessors to allow accounts chargeable upon county, 16	

	Page.
COUNTY COMMISSIONERS.—Continued.	
To keep book of accounts,	16
To appoint day of appeal from assessment,	16
Persons aggrieved by assessment may appeal to,	16
To meet on day of appeal,	17
Assessors to attend and lay constables returns and assessments before,	17
To examine appellant,	17
May diminish or add to assessment,	17
May summon and assess persons and estates omitted from assessment,	17
To rectify assessment,	17
Parties to have five days' notice to appear before and make objections,	17
Account of total charged against collector to be delivered by, to county treasurer,	17
Duplicates of rectified assessment to be delivered to with warrant to collect tax,	17
Treasurer to notify, of amounts paid paid in by collectors,	18
Treasurer to make complaint to, of neglect of duty by collectors,	18
Two or more, to issue warrant of distress to collector,	19-20
Two or more, to fine delinquent collector,	19
To appoint collector to act in his stead,	19
To issue warrant to seize body and estate of delinquent collector of taxes,	19-20
General meeting of, to be held,	20
To issue warrant to sell estate of delinquent collector of taxes if money be not paid,	20
Proceeds of sale to be paid to,	20
Penalty for neglect of duty by,	21
Penalty, how recoverable,	22
Other, and assessors to appoint successor in case of death, refusal, misbehavior or neglect,	22
Two or more, to fine treasurer for neglect of duty,	22
Collection of fine,	22

	Page.		Page
COUNTY COMMISSIONERS.—Continued.		COUNTY TAXES. See Taxes, County.	
		COUNTY TREASURERS.	
Two or more, to fine assessors for neglect of duty,	22	To pay bounties for killing wolves, foxes and crows on order of a justice of the peace,	15
Disposition of fines,	22	To keep accounts of bounties paid,	16
Compensation of,	22	To provide books of account at their own expense,	16
To allow compensation to clerks, ..	23	Accounts to be allowed by commissioners and assessors,	16
To fine clerks,	23	Duplicate of rectified assessment to be delivered to county treasurer, ..	16
To appoint others in case of death or neglect,	23	Collectors to render to treasurer accounts of and pay over moneys, &c., received,	18
In suits and prosecutions for things done under this act, special matter to be given in evidence under the general issue,	23	Treasurer to give receipts therefor, ..	18
In case of nonsuit or discontinuance by a verdict against, as plaintiff or prosecutor, defendant to have treble costs,	23	To notify commissioners of amounts paid,	18
Limitation of action,	23-4	To complain to commissioners of delinquency of collector,	18
Proceedings against, not to be stayed by nolle prosequi,	24	Moneys arising from sale of delinquent's estate to be paid to treasurer to satisfy sums due, ..	20
Fines and forfeitures not to be released without payment,	24	Commissioners to fine for neglect of duty,	22
And assessors to choose county treasurer,	24	Fine to be levied by warrant from commissioners,	22
To take bond from treasurer,	24	In case of death or neglect of duty, commissioners to appoint new, ..	22
In case of death or removal of treasurer, and assessors to appoint successor,	24	Fees of commissioners, assessors, and clerks to be paid by,	23
Treasurers to settle accounts with, and assessors,	25	Suits and prosecutions under act or neglect of duty to be barred after twelve months,	23-4
And assessors to fix compensation of treasurers,	25	Proceedings against delinquents not to be stayed by nolle prosequi, ..	24
Of Lancaster county, three to be elected for the first year,	133	Fines and forfeitures not to be released without payment,	24
To levy taxes to defray expense of building court-house and prison, ..	133-34	Commissioners and assessors to choose,	24
Re-election of, void,	235	Duties of,	24
Qualified person having next greatest number of votes to be declared elected,	235	To give bond,	24
To exhibit accounts to justices of the quarter-sessions and grand juries,	235	Amount of bond,	24
Accounts to be filed,	235	In case of death or removal of, successor to be appointed by commissioners and assessors,	24
Commissioners with grand juries and assessors and with assent of justices of the quarter-sessions to be sole judges of location of bridges,	236	Books of account to be kept by,	24
To agree with workmen for building and repairing same,	236	Treasurers to settle accounts with commissioners and assessors yearly,	25
To pay expenses thereof,	236	Compensation of, to be paid by commissioners and assessors,	25

	Page.		Page.
COUNTY TREASURERS.—Continued.		COURT-HOUSE.—Continued.	
On removal, treasurer to deliver books, accounts and papers to successor undefaced,	25	In Lancaster county, three hundred pounds in bills of credit loaned for building,	151
Penalty for neglect,	25	Said loan to be sunk by a tax levied upon the inhabitants of the county,	151-52
On death of, executors or administrators to deliver up said documents in like manner under penalty,	25	COURT OF COMMON PLEAS.	
To pay over yearly quotas and sums received in bills of credit to trustees of loan office,	40	Of Bucks county to be held at new court-house, in Newtown,	10
Trustees to give receipts therefor,	40	Summons in civil actions to issue from,	27
Receipts to be sufficient discharges,	40	Judges to be commissioned by governor or lieutenant-governor,	92
To present accounts to quarter-sessions,	235	To be held four times a year,	92
When examined, accounts to be filed with records of court,	235	Where to be held,	92
COURT, COUNTY.		When to be held in Philadelphia, Bucks and Chester counties,	92
Memorandum of election of pound-keeper and location of pounds to be returned to,	116-17	Judges of the, or any three of them to have all powers possessed by justices of King's bench, common pleas and exchequer in England,	93
Account of strays impounded to be sent to clerk of,	117	Judges of the, to issue all necessary writs and process under seal of county,	93
Account of strays sold with surplus proceeds to be returned to,	118	To issue subpoenas into any county or place of the province,	93
Justices to order surplus paid to overseers of poor for use of township,	118	To issue testatum executions,	93
If right owner appears within nine months, justices to order surplus to be repaid to him,	118-19	Special courts to be granted on application of defendant,	94
COURT-HOUSE.		Defendant first to give bail,	94
New, and prison to be built at Newtown in Bucks county,	9	Judges of the, as who hear cause, to issue order to assess damages or interlocutory judgment,	94
Trustees appointed to purchase site and erect building,	9	Inquest to be made in open court, ..	94
Commissioners and assessors to levy tax to defray expense of purchase of site and erection of building, ..	10	Inquisition to be returned to court...	95
Courts of quarter-sessions, gaol delivery and common pleas to be held in new,	10	Judgment to be given as upon inquisition made by sheriff,	95
State and county elections to be held at new,	10	To admit to practice attorneys at law,	95
To be erected in Lancaster county, ..	133	When officer dies after selling land under execution, to order successor to execute deed to purchaser on application,	96-7
Trustees appointed to purchase site for and erect,	133	Time and place of holding, in Lancaster county,	133
Tax to be levied to defray expense of erecting,	133-34	To make standing order for expense of keeping prisoners,	179-80
Courts to be held at,	133	To inquire as to compliance with fees established,	181
Elections to be held at,	133		

COURT OF COMMON PLEAS.—Continued.

To have jurisdiction of summary proceedings to remove sheriff or gaolers for illegal sale of liquors to prisoners,	182
When to discontinue suit and discharge imprisoned debtors,	213
Appeal to lie to, from decisions of magistrates under act regulating coopers' shops and bake-houses in Philadelphia,	216
Appeal to lie to, from judgment of the justice of the peace except in cases heard before auditors or referees,	294, 342, 373
Appellant to give recognizance to prosecute appeal,	294
Proceedings on appeal,	294, 342, 373
If appellant default, judgment to be affirmed and execution issued,	294
If both parties appear and plead, suit to proceed as other causes, ..	295
If either party default nonsuit or judgment by default to be entered,	295
Costs of appeal to be two-thirds of regular costs,	295, 343, 374
Justice of, who heard cause below not to sit on appeal, ..	295, 343, 374
Right of, to discharge insolvent debtors not affected by act for recovery of small debts,	341-42, 378

COURT OF OYER AND TERMINER.

Judges of the supreme court to hold, ..	91
---	----

COURT OF QUARTER-SESSIONS.

Brand-makes of bakers and bolters to be entered with clerk of the, ..	4
Return of election of commissioners and assessors to be filed with clerk,	12
Qualifications of commissioners and assessors to be filed with return, ..	12
Justices to fine delinquent commissioner,	21
To issue warrant to collect fine by distress or imprisonment,	21-2
To take recognizance from person licensed to sell liquors or keep public houses near the iron-works and elsewhere,	66

COURT OF QUARTER-SESSIONS.—Continued.

Recognizance taken by magistrate from person licensed to sell liquors or keep public house to be returned to,	72
Fees of clerk for filing recognizance, ..	72
To be held four times a year,	85
Time of holding in Philadelphia county,	85
Time of holding in Bucks county, ..	85
Time of holding in Chester county, ..	85
Competent number of justices to be commissioned,	86
Any three justices to hold court,	86
Judges of the, may hold special sessions when necessary,	86
Judges of the, to have full powers and authority of justices of the peace in Great Britain,	86
Recognizances taken out of sessions to be certified to next general sessions,	86
Recognizances taken for cause not cognizable by quarter-sessions to be certified to the justices of the supreme court of oyer and terminer,	86
Judges of the, to issue writs of scire facias to recover forfeited recognizances,	86
To be kept for three days,	86-7
Nothing in this act to deprive or abridge the powers or jurisdiction of the mayor and aldermen of Philadelphia,	87
Judges of the, may direct their writs or precepts to any sheriff or officer of the province,	87
May issue subpoenas and warrants into any county or place of the province,	87
Writ of error to lie from the supreme court to,	87
In case of error to the mayor, recorder and aldermen of Philadelphia, transcript of record only to be removed to the supreme court,	88
After reversal of affirmance of judgment, mayor, recorder or aldermen to proceed to execution or otherwise,	88

	Page.
COURT OF QUARTER-SESSIONS.—Con.	
Lists of negroes imported into each township to be returned to, by constable,	127
Time and place of holding, in Lancaster county,	133
To have jurisdiction of offenses against act laying a duty on foreigners,	138
Appeal to lie to, from judgment of mayor, aldermen or justices in regard to offenses against act imposing an internal revenue on liquors,	161, 246, 313, 403
Judgment of, to be final,	161, 246, 313, 403
To have jurisdiction of appeals from orders of justices with regard to imported vagrants, &c.,	167
Judgment of, to be final,	168
Appeal from judgment of justices convicting person charged with erecting dams or weirs in the Schuylkill to lie to,	195
Accounts of county treasurers to be presented to,	235
After examination accounts to be filed with records of court,	235
To concur with commissioners and assessors in erecting bridges,	236
To concur with commissioners and assessors in agreeing with workmen to build and repair bridges,	236
Not to recommend renewal of license except upon certificate of collector that internal revenue tax has been paid,	245, 315
Names and places of abode of vendors of liquors to be returned to, by constables,	247
Private brand-mark of bolters and bakers to be entered in,	249
On removal to be entered in, of county of removal,	249
Penalty for neglect,	249
To have jurisdiction of offenses against act to more effectually prevent the erection of weirs, dams, &c., in the river Schuylkill,	264

	Page.
COURT OF QUARTER-SESSIONS.—Con.	
Appeal to lie to, from decision of magistrates in regard to fines and forfeitures accruing under the "supplement to the several acts of assembly for the relief of the poor,"	276
Judgment of, to be final,	276
On application to lay out private roads to or from the plantations or dwelling-place of any person from highway, not exceeding certain width,	297
May permit owners of land through which such roads pass to maintain swinging gates across the same,	298
To fix prices of liquors retailed near iron furnaces,	303
Penalty for taking greater prices, ..	303
Application of penalty,	303
If no sufficient distress found of fender to be imprisoned until satisfaction is made,	317
Sued or prosecuted for anything done in pursuance of act to give the act and special matter in evidence under the general issue,	317
If plaintiff become nonsuit, suffer discontinuance or verdict pass against him defendant to recover, treble costs,	317
To divide each county into eight election districts,	332
Appeal to lie to, from order of magistrates on examination of paupers, lunatics, &c.,	364
Judgment of, to be final,	364
To annex new townships to election districts from which the greater part of it was taken,	377
Justices or aldermen who heard cause not to sit on appeal,	403
List of retailers of liquors to be returned to, by constables,	404
COURT, SPECIAL.	
To be granted on application of defendant,	94
Defendant to enter bail,	94

COURT, SUPREME.

	Page.
Penalty for violation of law exempting freeholders from arrest, recoverable in the,	29
Writs of error returnable to the, ..	87
Transcripts only of records of mayor, recorder and aldermen of Philadelphia to be certified to the supreme court on writ of error, ..	88
Style of the,	88
To be held twice a year,	88
To be held in Philadelphia,	88
Times of holding the,	88
To consist of three judges,	88
Judges to be commissioned by governor or lieutenant-governor, ...	88
One to be commissioned as chief justice,	88
Powers of judges of the,	88
Two judges to have power to hold court and decide causes,	88
To award process to levy fines and forfeitures taxed by them,	88
To have all the powers of the justices of the king's bench and common pleas at Westminster,	89
Appeal to be from the, to the King in council or to whatever tribunal he may appoint,	89
Appellant to pay costs and give bond,	90
Execution to be stayed on appeal, ..	90
Prothonotary of the, to be commissioned by the governor,	90
Office of prothonotary of the, to be kept in Philadelphia,	90
Form of writs issued from the,	90
When writs returnable,	90
Judges of the, not to sit in any lower court,	90
Judges of the, to hold courts of oyer and terminer and goal delivery, 90-1	
All felonies of death committed within province to be tried before the judges of the, at Philadelphia,	91
Fees of judges for hearing such offenses to be double those of quarter-sessions,	91
Original process not to issue from the, in civil causes,	92
Causes depending not to be discontinued,	92

COURT, SUPREME.—Continued.

	Page.
To amend tables of fees established by lower courts,	181
Judges of, empowered to administer affirmation of allegiance,	393

COURTS.

Time and place of holding, in Lancaster county,	133
To establish table of fees for the gaols within their jurisdiction, ..	180
To inquire whether fees are complied with,	181
Proceedings in, under act repealed in council declared valid,	230
Proceedings not to be abated or discontinued by reason of the repeal of said act,	230

COVENANT, ACTION OF.

Not to be tried before justice of the peace,	344, 375
--	----------

CREEKS.

Navigable, not to be obstructed by bridges,	36
Drawbridge over Chester Creek excepted,	36
Bridges erected by public authority excepted,	36
Act not to be construed to forbid the erection of dams, mounds and tide-banks for draining and improving meadows and low grounds, 37	

CRIMINAL PROCEDURE.

All capital felonies to be tried before jury from Philadelphia,	91
---	----

CROWS.

Bounty for killing,	15
Bodies to be produced before justice of the peace,	15
Justice to issue order on county treasurer for bounty,	15
Treasurers to keep accounts of bounties,	16
Commissioners and assessors to allow accounts,	16
Commissioners to keep accounts, ..	16

CURRENCY. See Bills of Credit.

	Page.
D.	
DAMAGES.	
Inquest to assess, to be held by justices of common pleas,	94
Judgment to be entered on inquisition,	95
For injuries committed by strays to be paid by poundkeeper to person grieved,	117
To be repaid to poundkeeper by owner,	118
If no owner appears, to be retained by poundkeeper out of proceeds of sale of strays,	118
DAMS.	
May be erected to drain low grounds and meadows,	37
Previously erected in the river Schuylkill and obstructing navigation to be removed,	194
Subsequently erected to be viewed by two justices of the peace on complaint,	195
If, found an obstruction to navigation, justices to issue warrant against person suspected of erecting them,	195
Penalty on conviction thereof,	195
Penalty, how recoverable,	195
If no distress found, offenders to be imprisoned for twenty days,	195
Appeal to be to quarter-sessions from judgment of justices,	195
Execution to be stayed until appeal is determined,	195
Justices to issue warrant to surveyor of highways to summon inhabitants of nearest township to remove,	195
Penalty for refusal to obey summons,	196
Persons erecting or maintaining or assisting to erect or maintain, racks, &c., in the river Schuylkill to be bound over to quarter-sessions,	264
Penalty for each offense,	264
Application of penalty,	264
Erected in the river Schuylkill to be destroyed by any one,	264

	Page.
DAMS.—Continued.	
Penalty for assaulting or obstructing person destroying,	264
Application of penalty,	264
Offenses against act to be laid and prosecuted in either Philadelphia, Chester or Lancaster county,	265
Justices of the peace in either county to issue warrant to highway surveyors of townships adjacent to, to summon inhabitants to remove same,	265
Penalty for refusal to obey summons,	265
Penalty, how recoverable,	265
Application of penalty,	265
DEATH.	
Punishment for forging or counterfeiting bills of credit, or uttering forged or counterfeited bills, ...	358
DEBT. See Justices of the Peace; Practice.	
Penalty for hawking or peddling without license to be recovered by action of,	142
Penalty for illegally exercising office of sheriff or under-sheriff to be recovered by,	214
Penalty for sale of liquors by collector of internal revenue or his deputy to be recovered by,	248
Penalty for sale of flour by inspector of bread and flour or deputy for Philadelphia to be recovered by,	255
Debts under five pounds to be recovered before justice of the peace,	339, 370
Justice to issue warrant in nature of summons of capias,	
Return of warrant,	339, 371
Justice to hear and decide cause, either personally, or on report of auditors or referees,	340, 371
Process against freeholder to be by summons only,	340, 371
On default of appearance, justice to divide cause in absence of defendant,	340, 371
Justice to levy execution on goods and chattels of defendant, ...	340, 371

DEBT.—Continued.

- If no sufficient distress found defendant to be imprisoned, 340, 372
- If defendant escapes, sheriff or gaoler to be liable, 340-41, 372
- Transcript of judgment to be filed in other counties, 341, 372
- Execution to issue in transcript, 341, 372
- Stay of execution, 341, 372
- If plaintiff become nonsuit or judgment pass against him, defendant to have costs, 341, 373
- Act not to affect right of common pleas to grant relief to insolvent debtors, 341, 373
- Appeal to be to common pleas from judgment of justices, 342, 373
- Appellant to give recognizance to prosecute appeal, 342, 373
- Justices to keep records of causes, 342, 373
- Transcript of record to be sent to prothonotary on appeal, 342, 373
- Proceedings on appeal, 342, 374
- Costs of suit appealed to be two-thirds usual costs, 343, 374
- Justice who heard cause not to sit on appeal, 343, 374
- If plaintiff prosecute suit otherwise than as directed by act, costs not to be recovered, 343, 375
- Act not to extend to certain actions, 344, 375
- Duration of act limited to three years, 344, 375

DEBTOR AND CREDITOR. See Insolvents.

DEBTS UNDER FORTY SHILLINGS.

- Person imprisoned for, to be discharged under insolvent laws, ... 178
- Penalties imposed by act to prevent the exportation of bread and flour not merchantable when under forty shillings to be recovered as other debts of like amount, 255

DECEDENT'S ESTATES.

- Goods of, may be sold at auction without license, 145
- Legacies due to be recovered by action of debt, detinue, or account render, 388

DECEDENTS ESTATES.—Continued.

- If it appear that the legacies are due and the executors, &c., have sufficient assets in their hands to pay debts and legacies plaintiffs to recover, 389
- If assets are insufficient to pay all legacies to abate pro rata unless otherwise provided in the will, .. 389
- If legatees are under age, they may recover by guardian or next friend, 389
- On plea of want of assets, auditors to be appointed by court, 389
- Court to award execution on report of auditors for proportion found in executors or administrator's hands, 389
- Judgment to remain as security for remainder, 389
- If exceptions are taken court to correct errors in auditors' report, 389-90
- No suit to be maintained for legacy until demand made, with offer of security to refund, 390
- If executors or administrators refuse to accept bond, it may be filed with the clerk of court, 390
- Costs to be awarded on discretion of justice out of estate of decedent or of the executor or administrator, 390
- On deficiency of assets, legatees to refund pro rata only, 390
- If no time limited for payment of legacy executor or administrators to have one year to do so, .. 391
- Duration of act limited to seven years, 391

DEED. See Mortgage.

- Of land sold for non-payment of sums due by delinquent collector, 20

DEER.

- Not to be killed except between the first day of July and the first day of January, 217
- Penalty for violation of act, 218
- Constables knowing of offenses against act to present them to a justice of the peace or to the quarter-sessions, 218

	Page.		Page.
DEER.—Continued.		DEPUTIES OF COLLECTOR OF INTERNAL REVENUE TAX ON LIQUORS. See Collector of Internal Revenue Tax on Liquors.	
Offense to be prosecuted to conviction within four months,	218	DEPUTY COLLECTOR OF DUTY ON NEGROES. See Collector of Duty on Negroes.	
DEFAULT.		DEPUTY COLLECTOR OF INTERNAL REVENUE TAX ON LIQUORS.	
Of appearance, judgment for,	27-8	Powers and duties of,	396, 398, 399
In payment of loans to loan office, effect of,	43-4	To be appointed by collectors,	399
In payment of principal or interest of mortgage to trustees of loan office, effect of,	109	Collectors to be accountable for their behavior,	399
DEFENDANT.		Not to trade in liquors during continuance of act,	405
Not liable to arrest in civil actions if freeholder,	27	Penalty in trading in liquors by, ...	405
Exceptions,	28	Office to be forfeited,	405
If wrongfully arrested, writ to be abated with costs,	28-9	DETINUE.	
Recovery of cost,	29	Legacy to be recovered by,	388
DEPUTIES.		DISCONTINUANCE.	
Of inspector of flour, power of,	6, 7	In cases arising under act for laying a duty on negroes renders plaintiff or prosecutor liable to treble costs,	128
Appointment of,	7	Act erecting Lancaster county not to discontinue suits pending in courts of Chester county,	134
Of inspector of beef and pork to be appointed by inspector,	76	In suits and prosecutions for acts done under internal revenue acts, to render plaintiff or prosecutor liable for treble costs,	162
Deputies to have power of inspector,	76	In suits for official acts done under act for relief of insolvent debtors to render plaintiff liable to treble costs,	175
Of collector of internal revenue tax to be appointed by collector,	242	To be ordered by court if person at whose suit a debtor is imprisoned refuse or neglect to give security for his weekly allowance,	213
Not to sell liquors during continuance of act,	248	In suits or prosecutions for things done under act reviving an excise on wine, &c., to entitle defendant to treble costs,	247
Penalty for selling liquors,	248	If plaintiff or prosecutor in actions for things done in pursuance of act laying an excise on wine, &c., suffer discontinuance defendant to recover treble costs,	317
Penalty, how recoverable,	248		
Application of penalty,	248		
Office to be forfeited on conviction of offense,	248		
To have all powers of inspector,	250, 251, 253, 254, 256		
Of inspector of bread and flour to be appointed by inspector,	254		
Of inspector for Philadelphia not to deal in flour during continuance of act,	256		
Penalty for dealing in flour contrary to act,	256		
Penalty, how recoverable,	256		
Application of penalty,	256		
Office to be forfeited on conviction of offense,	256		
Justices of Philadelphia to appoint another until assembly appoints successor,	256		

	Page.		Page.
DISCONTINUANCE.—Continued.		DISTRESS.—Continued.	
On, of replevin for arrears or proprietaries' quit-rents, goods replevined to be restored or arrears of rent and costs paid,	324-25	Forfeiture for sale of liquors without license to be levied by,	162
In suits and prosecutions for things done in pursuance of act for laying an excise on wine, &c., if plaintiff or prosecutor suffer, defendant to recover treble costs,	404	Landlord may distrain goods of insolvent for one year's rent,	177
		Penalty for erecting weirs or dams on the Schuylkill to be levied by, 195	
		Fines and forfeitures accruing under acts reviving or laying excise on wine, &c., to be recovered by,	246, 317, 403
		If no sufficient, be found, offender to be imprisoned until satisfaction made,	246, 317
		Sums of money expended for maintenance and burial of paupers to be collected by, from overseers of place of last settlement, ..	271
		Penalties for offense against act entitled "A supplement to the several acts of assembly of the province for the relief of the poor" to be levied by,	276
		Appeal to lie to the court of quarter-sessions from decision of justices, ..	277
		Judgment of court to be final,	277
		Execution issued by justice of the peace to be by,	293
		Penalty for selling liquor without license near an iron furnace to be levied by,	302
		Arrearages of internal revenue tax to be collected by,	311
		Arrearages of internal revenue tax to be recovered by, from collector neglecting or refusing to collect and pay over same,	313, 400
		Paying collector arrearages under process to distrain on persons owing same, without further warrant,	313-14
		Such wine if not redeemed within five days, to be sold,	317
		Arrears of proprietaries' quit-rents to be recovered by,	324
		Goods to be sold if not replevined within five days,	324
		If person replevining discontinue his suit, become nonsuit or verdict pass against him, goods replevined to be restored or arrears of rent and costs paid,	324-25
DISCOVERER.			
Of forged or counterfeited bills of credit to receive half the fine imposed on the offender,	113		
If fine not paid, to receive five pounds from trustees of loan office, ..	113		
DISTILLERS.			
To sell own distillation in quantities of not less than ten gallons without paying internal revenue tax thereon,	247, 318		
Entry thereof to be first made with collector,	247		
To take oath that liquors sold are the bona fide product of the province,	247, 318		
Purchaser from distiller to pay internal revenue tax as on other liquors,	318		
To sell own product to retailers in quantities of not less than five gallons without paying internal revenue tax,	404-5		
Liquors sold by, to be entered with collector within one month,	405		
Purchaser to pay tax on sales,	405		
DISTRESS.			
To recover unpaid county taxes, ..	19		
To recover sums due from delinquent collector,	20		
To recover fines imposed on delinquent commissioners, treasurers, assessors and clerks,	22		
Penalty for illegal sale of liquors near the iron-works to be levied by,	65		
Goods taken by, may be sold at public vendue without license, ..	145		

	Page.
DISTRESS. —Continued.	
Penalty for failure to pay internal revenue tax due, to be collected by,	397
DRAINAGE. See Meadows.	
DRAWBRIDGE. See Chester Creek.	
DUTIES. See Taxes; Tariff; Internal Revenue; Liquors; Slaves.	
E.	
EARS.	
Lopping of, punishment for raising bills of credit,	358
ELECTIONS. See General Assembly; County Assessors; County Commissioners; Coroners; Sheriffs.	
In Bucks county to be held at new court-house in Newtown,	10
Inspectors of, to be nominated in presence of the judge of election,	78
Inspectors to be freeholders,	78
Nominations to be made immediately before,	78
Nominees to be voted for separately until full number are chosen, ...	78
Eight inspectors to be chosen for the county and city of Philadelphia, ..	78
Six to be chosen for the city of Philadelphia,	78
Four each to be chosen for the counties of Bucks and Chester, ..	78
Majority of votes cast to elect,	78
Such persons to be chosen as are best acquainted with the qualifications of the electors,	78-9
Inspectors to be qualified by oath or affirmation,	79
Oath to be administered by judge, ..	79
Contents of oath,	79
Inspectors to administer oath or affirmation to electors,	79
Form of oath,	79
Votes of those who refuse to take oath to be rejected,	79
Votes of those who take oaths to be put in ballot box,	79
No such vote to be suppressed, ...	79

	Page.
ELECTIONS. —Continued.	
Former act to remain in full force and effect except as altered by this act,	79-80
Of poundkeeper,	116
Time of holding, in Lancaster county,	132
Place of holding,	133
Election districts to remain unchanged,	377
New townships to be annexed by quarter-sessions to districts from which greater part of it was taken,	377
Account of districts to which new townships are annexed to be delivered to sheriff, and made known by him to constable,	377
ELECTION DISTRICTS.	
Justices of quarter-sessions to divide each county into eight,	332
To be recorded and account thereof delivered to sheriff,	332
ELECTIONS FOR MEMBERS OF GENERAL ASSEMBLY.	
Quarter-sessions to divide each county into eight districts,	332
Record of division to be made by clerk,	332
Account of districts to be delivered to sheriff,	332
Sheriff to make districts known to constables,	332
Qualified freeholders of each township to meet annually on September 25, and nominate one freeholder as inspector of,	332, 377
Name of nominee to be delivered to sheriff or judge of,	333, 378
All names of nominees for each district to be placed in one box, ...	333, 378
One name to be drawn therefrom by some different person in presence of sheriff and judge of, and four freeholders,	333, 378
Persons whose names are drawn if present to be inspectors of, for the year,	333, 378

	Page.		Page.
SELECTIONS FOR, &c.—Continued.		EMPLOYER AND EMPLOYEE.—Con.	
Each ward in Philadelphia to nominate one freeholder for inspector and certify his name to the sheriff,334,	379	Such taxes may be collected by distress,	21
Four names to be drawn from names certified to sheriff as in other cases,334,	379	May be recovered by, from servant,	21
Four persons whose names are drawn to act as inspectors with those chosen for the county of Philadelphia,334,	379	ERROR, WRIT OF.	
Persons whose names are not chosen to act as inspectors for the city of Philadelphia,334,	379	To the Supreme court to lie to judgment of quarter-sessions, ...	87
Inspectors to be qualified by oath,334,	379	On, for the city of Philadelphia, transcript of record only to be filed in the supreme court,	88
Contents of oath,334,	379	On affirmation or reversal, mayor or recorder and aldermen to proceed to execution or otherwise,	88
Inspectors to administer oath or affirmation to electors,334,	379	To be issued from the supreme court,	88
Votes of those who refuse to take oath to be rejected,335,	380	ESCAPE.	
Votes of those who take oath to be received,335,	380	Sheriff or gaoler liable to damages to plaintiff for, of defendant committed to gaol,340-41,	372
Constables to give notice of time of nominations of electors,335,	380	ESSOIN.	
Overseers of the poor to give notice, in case of death, absence or neglect of constable,335,	380	Not allowed, ..8, 34, 53, 77, 125, 130, 142, 154, 169, 255, 306	
Constable or overseer of the poor to attend, and certify result of nomination,335,	380	ESTRAYS. See Pounds.	
Penalty for neglect or misconduct of constable or overseer acting as judge of,336, 380-81		To be delivered to poundkeeper if owner refuses to pay damages or if no owner appears,	117
Penalty, how recoverable,336,	381	Poundkeeper to receive and feed them,	117
If person nominated does not appear another name to be drawn,336,	381	To pay damages to person grieved,	117
Supplementary act to the act for ascertaining the number of members of assembly, and to regulate, repealed,336,	381	Kind, color and marks of strays, with date of receiving them and from whom received, to be recorded by poundkeeper,	117
Act for ascertaining the number of members of assembly and to regulate, not repealed, except as altered or supplied,336, 350, 356,	381	Account thereof to be sent to clerk of county court within ten days,	117
EMPLOYER AND EMPLOYEE.		Account to be posted in office of clerk,	117
Liable for county taxes assessed upon hired servant,	21	Notice thereof to be affixed at courthouse,	117
		If owner appears, to be returned to him on payment of damages and costs,	117
		If owner does not appear, poundkeeper to sell, at public sale on warrant of justice of the peace, ..	113
		Damages, costs and charges to be retained out of proceeds of sale,	113

	Page.
ESTRAYS.—Continued.	
Accounts of proceedings to be kept and returned with surplus proceeds of sale to justices at next county court,	118
Surplus to be paid to overseers of the poor for use of the township,	118
If right owner appears within nine months, justices to order surplus to be paid to him,	118-19
Penalty for illegally taking, from pounds,	119
Application of penalty,	119
Act to prevent swine running at large extended throughout province,	122
EVIDENCE.	
Special matter may be given in, under the general issue,	23, 56
Attested copy of record of mortgage to be, thereof,	42
Act imposing an internal revenue tax on liquors to be given in evidence under the general issue in suits and prosecutions for acts done under it,	162
Set-off may be given in evidence under the general issue if notice be given at the time of pleading,	177
In suits or prosecutions for things done under act for reviving an excise on liquors, act and special matter to be given in evidence under the general issue,	247
In suits or prosecutions for things done in pursuance of act laying an excise on wine, &c., defendant to give the act and special matter in evidence under the general issue, ..	317
EXCISE. See Liquors; License; Taxes; Tariff; Internal Revenue.	
EXECUTION.	
To be awarded on affirmation or reversal of judgment,	88
Testatum executions to be issued by common pleas,	93
Penalty for refusal or neglect of sheriff or coroner to execute or return testatum execution,	94
Penalty to be paid into the provincial treasury,	94

	Page.
EXECUTION.—Continued.	
When officer dies after selling lands under execution, common pleas may order successor to execute deed to purchaser on application,	96-7
In suits before justice of the peace to be by distress,	293
Freeholder entitled to three months' stay of execution,	293
Non-freeholder entitled to three months' stay of, in giving special bail,	293
In cause within jurisdiction of justice, to be by distress of goods and chattels,	340, 372
If no sufficient distress found, defendant to be imprisoned,	340, 372
Execution to be issued on transcript of judgment filed in other counties,	341, 372
Stay of execution,	341, 372
EXECUTOR.	
May sell goods of decedent at public vendue without license,	145
May be sued for legacies due, ..	388-89
Not to be sued until after demand made, and refunding bond offered, ..	390
If in default to be liable for costs of suit,	390
To be allowed one year to make payment of legacies if no time provided in will,	391
EXEMPTION.	
Wearing apparel, bedding and working tools and implements not over five pounds in value exempt from execution,	176
In case of execution on debts under forty shillings,	178
EXPORTS. See Biscuit; Bread; Flour; Inspection; Liquors; Negroes; Beef; Pork.	
EXTENT.	
Execution on transcript of judgment of justice of the peace to be levied by,	341, 372
EXTORTION.	
Not to be practiced by public officers upon prisoners or persons arrested,	179

	Page.
EXTORTION.—Continued.	
To be punished by summary proceedings,	181-82
Orders therein to be enforced by attachment,	182

F.

FAGOTS.

Quantity to be kept near any building in Philadelphia, limited,	216-17
Penalty for violation of act,	217
Kept contrary to act to be removed as a nuisance,	217

FEES.

Of clerk of quarter-sessions for recording brand-mark of bakers and bolters,	4, 249
Of inspector for branding casks of flour,	5, 252
Of constables for executing precepts of assessors,	14
Of tax commissioners,	22
Of tax assessors,	23
Of tax collectors,	23
Of clerks of tax commissioners,	23
Of county treasurers,	25
Of keeper of powder-house,	33
For entry of satisfaction on record of mortgage,	43, 109
Of clerk of trustees of loan office, 53, 105, 107, 108, 203,	257
Of collector of duty on negroes on security being given for duty, 53, 55,	124
And commissions on duties collected,	56, 127
Of magistrates for taking recognizance of person licensed to sell liquors or keep public house, ...	72
Of clerk of quarter-sessions for filing recognizance,	72
Of inspector of beef and pork and deputies,	75
One-half of, to be paid by buyer or shipper, the other half by the seller,	75
Of judges of the supreme court to be double those of judges of quarter-sessions,	91
Of attorneys not allowed if warrant of attorney be not plead,	95
Of signers of bills of credit, 100, 206,	347, 413

FEES.—Continued.

Of trustees of loan office for endorsing payments on account of mortgage,	109, 355-56
Of poundkeeper for keeping strays impounded,	117-18
For selling strays impounded,	118
Of clerk of county court for filing certificate of poundkeeper,	118
Of collector of duty on negroes for granting permit to land negroes,	124
In case negroes die or are bona fide exported within six months,	126
For administering oath to alien, ..	135
For license of hawkers and peddlers,	142
Of clerk of quarter-sessions for making and delivering lists of licensed vendors of liquors to provincial treasurer and collector of internal revenue on liquors,	158-59
Of collectors of internal revenue on liquors,	160, 239, 395-96
Of mayor and justices for granting permit to land passengers,	169
Of collector of duty for entering account of passengers and notifying magistrates,	169
Of collector of duty for taking security,	169, 365
Of gaoler to be fixed by order of court,	180
To be amended by order of the supreme court,	181
Of inspector of hemp,	183
Of trustees of loan office for exchanging bills of credit, ..203, 348, 414	
For granting certificate of entry of liquors,	240, 310, 396-97
For performance of duties imposed by act,	243, 313, 399
Of provincial treasurer for handling internal revenue tax on liquors,	243, 406
Of inspector of bread and flour for recovering penalties,	256
Of justice of the peace for delivering transcript of record on appeal,	294
Of magistrates, on examination of passengers,	365
Of collector of tariff on convicts and his deputies for entry of passengers,	365

	Page.
FEES.—Continued.	
Of judges and secretary of supreme court for administering affirmation of allegiance,	394
FELONY.	
Extra duty to be paid for importation of negroes transported for,	60
FENCES.	
Lawful, defined,	119
FERRIES.	
From Philadelphia to William Cooper's vested in the mayor and commonalty of Philadelphia for seven years,	81
Mayor and commonalty to make a ship or landing place at the foot of High street, to provide substantial boats and capable ferrymen,	81
Ferrymen to reside in Philadelphia near landing place and attend the ferry,	81
Rates of ferriage,	81-2
Ferry from Philadelphia to Gloucester vested in the justice of the county of Philadelphia for seven years,	82
Ferry to be let to capable ferrymen,	82
Ferrymen to keep good and sufficient boats and attend ferry,	82
Rates of ferriage,	82-3
No grant of a ferry to be received from any one except from the mayor and commonalty of Philadelphia or the justices of the county of Philadelphia within two miles of the landing places of these, under penalty,	83
No one to employ boats, flats or canoes for ferrying passengers or cattle for reward within two miles of these, under penalty,	83
Ferrymen from Cooper's may land cattle or horses at the end of Vine street,	83
Profits of ferry from Cooper's to be applied to such public uses as the mayor and commonalty of Philadelphia shall order,	83

	Page.
FERRIES.—Continued.	
Profits from ferry to Gloucester to be appropriated to the public workhouse in Philadelphia,	84
Recovery of fines and forfeitures, ..	84
Disposition of fines and forfeitures, ..	84
Ferry from Kirkbride's landing place near Delaware Falls continued for eleven years,	129, 130
Owners required to maintain, in manner needful for convenience of passengers,	129
Rates of ferriage,	129-30
Penalty for neglect of duties imposed by act,	130
Penalty, how recoverable,	130
Application of penalty,	130
Penalty for second offense,	130
Penalty for third offense,	130
No other person to ferry persons or animals across the Delaware for hire within two miles of the said ferry,	130
Penalty for violation of act,	130
Application of penalty,	131
FIERI FACIAS.	
Execution on transcripts of judgment of justice of the peace to be levied by,	341, 372
FINES.	
Taxes in the supreme court to be levied by process issued therefrom,	39
FIRE.	
Persons setting on, woods, marshes, &c., to make satisfaction to all persons injured thereby,	281
Damages, how recoverable,	281
Suit to be brought in the county where the offense was committed, ..	281
If damages claimed are not over forty shillings, justice of the peace on application to summon offender before him,	281
If defendant appear guilty justice to appoint inquest to determine damages,	282

	Page.		Page.
FIRE.—Continued.		FLOUR.—Continued.	
On certificate of inquest justice to grant execution for damages and costs as in case of debts under forty shillings,	282	Penalty for grinding unmerchantable wheat,	7
Costs not to be paid to plaintiff in case of suit if jury do not assess over forty shillings damages,	282	Penalties, how recoverable,	8
Servants, negroes or slaves setting, without leave of master to be whipped on conviction before any justice of the peace and be committed to the workhouse until costs are paid unless master pays damages and costs,	282	Application of penalties,	8
FIRING WOODS. See Fire.		Bolter to have private brand-mark,	249
FLOUR. See Bolters.		Bolted for exportation to be merchantable and of due fineness, packed in good strong cask, with tare marked thereon,	250
Casks to be branded,	4, 249	And cask to be first weighed,	250
Penalty for neglect,	4, 249	Cask to be well nailed,	250
Requisites of, intended for exportation,	4	Penalty for failure to pack, as directed by act,	250
Penalty for fraudulent packing,	4	Penalty for marking wrong tare on cask,	250
Penalty for fraudulent invoice of net proceeds or weight of,	4	Inspector of, to unpack cask and try tare on suspicion or request of buyer,	250
Intended for exportation, to be inspected before loading,	5	If tare incorrect, bolter to pay charges of unpacking and repacking; if correct, inspector or purchaser (as the case may be),	250
If passed, cask to be branded with provincial brand-mark,	5	Invoice of contents to be delivered with,	250
In case of dispute as to merchantable quality of, magistrate to appoint inquest on application,	5	Penalty for failure to deliver true invoice,	250
Magistrate to enter judgment on report of inquest,	5	Penalty for invoicing, at more than its weight,	250-51
If found unmerchantable, magistrate to forbid exportation on pain of forfeiture,	5	Penalty for frauds in packing, or for delivering fraudulent invoice,	251
Fine and costs to be paid to inspector by owner,	5	All vehicles used for conveying, from mill to have good and sufficient covering,	251
Owner to recover price and costs from bolter,	5	Not to be left at landing or other place except under shelter,	251
If found unmerchantable, costs to be paid by officer,	5, 252	Not to be conveyed by boat unless boat be provided with sufficient covering to secure it in case of rain,	251
If condemned, officer to take brand and marks and number of casks,	5, 252	If, wet or damaged in transportation owner of vehicle or boat to pay one shilling per cask as penalty,	251
If condemned, is shipped again for exportation, burden of proof on owner or shipper,	5, 252	No, to be exported without inspection,	251
		Manner of inspection,	251-52
		If adjudged merchantable, cask to be branded with provincial brand-mark,	252

	Page.		Page.
FLOUR.—Continued.		FORFEITURE OF OFFICE.—Continued.	
Brand-marks of the different coun- ties to be distinguished,	252	Penalty for sale of liquors by col- lector of internal revenue or his deputy,	248, 319
Fee for inspecting and branding, ..	252	Penalty for collector of internal revenue trading in liquors,	405
In case of dispute as to quality of, magistrate on application to issue warrant to inquest to examine, ...	252	FORGERY.	
Judgment to be entered on report of inquest,	252	Of bills of credit, punishment for,	45, 112-13, 204-5, 359
If, adjudged unfit for exportation, magistrate to order it not to be exported and order owner thereof to pay the inspector one shilling per cask with costs,	252	Offender unable to pay fine, to be sold into servitude for seven years,	113
Owner of flour to recover penalty and costs from bolter,	252	Forged bills to be delivered to trus- tees of the loan office,	113
Inspector or deputies to enter any ship, vessel, house, store, &c., to search for, designed for exporta- tion,	253	Such bills to be safely kept and de- stroyed by the auditing committee, ..	113
Penalty for obstructing search,	253	Forged bill to be destroyed,	359
Penalty for shipping, not branded with provincial brand-mark,	253	FORNICATION.	
To be ground only from screened wheat,	254	Of negro and white person, penalty for,	63
Penalty for grinding unscreened wheat,	254-55	FOXES.	
Penalty for counterfeiting provincial brand-mark or branding casks therewith,	255	Bounty for killing,	15
Penalty for second offense,	255	Heads to be produced before justice of the peace,	15
Punishment for third offense,	255	Justice to examine claimant,	15
Penalties, how recoverable,	255	If satisfied, to issue order on county treasurer for bounty,	15
Application of penalties,	255-56	Treasurers to keep accounts of bounties paid for,	16
Inspector of Philadelphia and his deputies not to deal in flour during continuance of act,	256	Commissioners and assessors to allow accounts,	16
Penalty for dealing in, contrary to to provisions of act,	256	Commissioners to keep accounts, ...	16
Penalties, how recoverable,	256	FRAUDS.	
Application of penalties,	256	In packing for exportation flour or bread, penalty for,	4
Conviction of offense to disable from exercise of office,	256	Penalty, how recoverable,	8
FORFEITURE OF OFFICE.		Application of penalty,	8
Penalty for inspector of bread and flour or deputy to account for and pay over fines collected by them, ..	256	FRAUDULENT CONVEYANCES.	
Penalty for inspector of bread and flour or deputy in Philadelphia for selling flour contrary to act, ..	256	All gifts, grants, sales, &c., made by a delinquent collector after de- fault, declared fraudulent and void, ..	27
		FRAUDULENT PACKING.	
		For exportation flour or bread, pen- alty for,	4
		Penalty, how recoverable,	8
		Application of penalty,	8

	Page.		Page.
FREEHOLDERS.		GAOLER.—Continued.	
Certain, not to be detained in person by writ of arrest or capias ad respondendum in any civil action unless in the King's case or as directed by the act,	27	Not to keep tavern or public house,	182
Original process against, to be a writ of summons, ..27, 292, 340, 371		Not to sell liquors to prisoners beyond amounts fixed by order of court under pain of removal from office,	182
Summons to issue out of the common pleas,	27	Complaint to be heard and determined summarily,	182
To be directed to sheriff or coroner,	27	To be liable to plaintiff for safe keeping of defendant taken in execution,	304-41, 372
Form of summons,	27		
Service of summons,	27	GATES.	
Judgment against, for want of appearance by nihil dicit,	28	Quarter-sessions may permit owners of lands crossed by private road to maintain swinging, across the same,	298
Under what circumstances, are liable to arrest,	28		
If exempt, be arrested, writ to abate with costs to defendant,	28-9	GENERAL ASSEMBLY.	
Attachment to issue for non-payment of costs,	29	Members of, to be elected annually,	11
Penalty for violation of law by judges or officers of court,	29	Manner of election,	11
Penalty recoverable by, in supreme court,	29	Ballot for members of, to be distinct from those for other officers,	11
Repeal of former act regarding,	29	Return of election,	12
Entitled to three months' stay of execution in cases heard before justices of the peace,	293, 341, 371	Committee to audit accounts of trustees of loan office, 49, 111, 204, 308, 356, 410	
		Committee to destroy bills of credit paid in after January 16, 1731, ..	49
FREE NEGROES. See Negroes.		To keep account of bills destroyed, 49-50	
FURNACES. See Iron-works.		To appoint successor to clerk of trustees of loan office,	50
G.		To appoint successor in case of death or removal of trustees of loan office,	101, 349, 409
GAOLER.		Committee to have power to inspect accounts at all reasonable times,	103, 399, 410-11
To permit prisoner to send for food and drink, &c.,	180	To advertise for proposals to redeem bills of credit,	111
Not to charge other fees than are allowed by law,	180	Bills paid in and redeemed to be sunk and destroyed in presence of the committee, 111, 112, 114, 115, 357-59, 414	
Courts to establish table of fees, ..	180	Bills to be first compared with counterparts and number and value recorded,	111
Orders establishing fees to be amended by order of supreme court,	181	To order disposition of surplus interest,	112
Table of fees to be recorded,	181	Committed to destroy forged or counterfeited bills of credit,	113
Table of fees to be hung up in gaol, ..	181		
Courts to inquire whether table of fees is complied with,	181		
Violation of act by, to be heard and determined summarily,	181-82		
Orders therein to be enforced by attachment,	182		

	Page.
GENERAL ASSEMBLY.—Continued.	
Two thousand pounds in bills of credit loaned for erecting a house for meetings of the,	115
To inspect accounts of collector of duty on negroes,	127
To appoint his successor,	128
Number of representatives to, elected from Lancaster county, ..	132
Election of members of, from Lancaster county regulated,	132
To appoint successor to collector of duty on aliens,	140
William Fishbourn disabled to act as member of, for five years,	227
Wages of assemblymen to be paid by orders drawn by the house on the trustees of the loan office out of the interest-moneys received by them,	235-34
To settle accounts of collectors of internal revenue,	242, 313
To allow charges incurred in prosecuting offenders,	243
To appoint successor to collector of internal revenue who has forfeited his office, 248, 314, 319, 401, 405	
To appoint successor to collector of duty on persons convicted of heinous crimes,	321
To appoint successors to signers of bills of credit deceased or incapacitated,	348, 413
Committee not to allow credit for any sums due, excepting such as trustees have proceeded to recover, 357	
In case of death or removal to appoint successor to provincial treasurer,	406
GENERAL ISSUE. See Evidence; Pleading.	
Certain acts to be given in evidence under plea of, 128, 162, 175, 247, 404	
Set-off may be given in evidence under, if notice be given at the time of pleading,	177
GLOUCESTER, NEW JERSEY.	
Ferry from Philadelphia to, vested in the justices of the county of Philadelphia for seven years,	82

	Page.
GOVERNOR. See Lieutenant-Governor.	
Estate not to be liable for county rates and levies,	14
One-half of fines and forfeitures arising under act for securing the city of Philadelphia from danger of gunpowder to estreat to,	34
One-half of fines and forfeitures arising under act for laying a duty on negroes, to estreat to,	53
One-half of fines and forfeitures arising under the act for regulating the sale of liquors near the iron-works to estreat to,	66
To grant license for sale of liquors in less quantities than one quart, 71, 244, 315	
One-half the fines and forfeitures accruing under the act to regulate the exporting of beef and pork to estreat to,	77
To commission justices of quarter-sessions,	86
To commission judges of the supreme court,	88
To commission prothonotary of the supreme court,	90
To receive one-half the value of negroes forfeited,	125
To receive one-half the penalty for ferrying for hire across the Delaware within two miles of Kirkbride's ferry,	130-31
To approve of site selected for court-house and prison in Lancaster county,	133
To receive one-half the forfeiture for illegally landing aliens, &c., ..	138
To grant license to hawkers and peddlers,	142
To receive one-half of penalty for hawking or peddling without license,	142
To receive one-half of penalty for setting up lottery,	144
To grant license of vendue-master of Philadelphia on recommendation of mayor, recorder and aldermen,	144
To receive one-half the duty paid for imported convicts,	164, 361
To receive one-half the forfeiture for illegally landing convicts, 164, 363	

	Page.
GOVERNOR.—Continued.	
To receive one-half the penalty for landing convicts, &c., without paying duty,	169
Act of, not to prevent recovery of penalty for illegal exercising office of sheriff or under-sheriff,...	214
Not to renew retail liquor license except upon certificate of collector that internal revenue tax has been paid,	245
To receive one-half of the fine imposed for raising bills of credit, ..	358
GRAND JURY.	
To examine accounts of county treasurer,	235
With commissioners and assessors and with concurrence of justices of the quarter-sessions to be sole judges of location of bridges,	236
GRAND LARCENY. See Larceny.	
GRIST-MILL.	
Owners or occupiers not to grind unsound or unmerchantable wheat for exportation,	7
Penalty for violation of section, ...	7
Penalty, how recoverable,	7
GUARDIAN AND WARD.	
May sue for legacy due ward,	389
GUNPOWDER.	
Keeping of, in Philadelphia regulated,	32
Powder-house to be erected,	32
All gunpowder brought into city to be stored in powder-house,	32
Keeper of powder-house to attend and receive and deliver,	32
Receipts to be given for, stored, ...	33
Contents of receipt,	33
No one within the city of Philadelphia or two miles thereof to keep more than twelve pounds of,	33
Penalty for violation of act,	33
Masters and merchants importing, to deliver it to the keeper of the powder-house on notice,	33
Penalty for failure to deliver,	33
Fees of keeper of powder-house, ..	33
Re-delivery of, for exportation,	34

	Page.
GUNPOWDER.—Continued.	
Penalty for neglect of keeper of powder-house to attend thereat or for his exacting illegal fees,	34
Penalties, how recoverable,	34
Application of penalties,	34
Repeal of clause of former act,	34-5

H.

HABEAS CORPUS. WRITS OF.

To be issued by judges of the supreme court,	88
--	----

HALF-BARRELS. See Cask.**HAWKERS.**

Not to sell goods without license, 141-42	
License to be granted by governor on recommendation of justices of the county court,	142
Licensee to file bond for good behavior,	142
Fee for granting license,	142
Penalty for hawking without license, 142	
Penalty, how recoverable,	142
Application of penalty,	142
Penalty for refusal to show license on demand by proper officers,	142
On non-payment of penalty, to be treated as common vagrants,	142
Act not to apply to sales at fairs or to hawking produce or manufactures of the province,	142
In case of dispute, to declare on oath before a justice of the peace or other magistrate whether goods hawked are the produce or manufacture of the province,	142

HAY.

Not to be stacked within one hundred feet of any building in Philadelphia,	216
Penalty for violation,	217
Hay stacked contrary to act to be removed as a nuisance,	217

HEMP.

Bounty to be paid to raisers of merchantable,	30, 185
Officer in charge to pay bounty, or on oath or affirmation of claimant,	30, 185

HEMP.—Continued.

	Page.
Receipt to be given to owner of, ..	31
Fees of officer,	31
To be deposited and kept in warehouse until applied for,	31
To be delivered to applicant on presentation of receipt,	31
Charges for warehousing,	31
Charles Read appointed officer to receive and examine,	31, 69
Former bounty on, repealed,	69
New bounty directed to be paid for merchantable,	69
Bounty not to be paid until after inspection by officer,	69
In case of dispute, owners of, may apply to magistrate of Philadelphia,	69-70
Magistrate to issue warrant to inquest of two indifferent persons to examine, and report,	70
Magistrate to give judgment according to report of inquest,	70
Costs of inquest,	70
Costs to be paid by owner of,	70
Collector to administer oath to owner of, before paying bounty, ..	70
Parts of former act not repealed to remain in full force and effect, ..	70
Brought to Philadelphia to be brought directly to the public beam at the work-house on penalty of forfeiting all such,	185
Notice to be given to inspector on penalty of forfeiture,	185
On dispute between claimant and inspector, inquest of two persons to be appointed to inspect the,	185
If, found unfit for cordage, inquest to assess its value and certify facts to justice,	186
Inspector to give an order on the treasurer of Philadelphia for the appraised value and deliver the, to the overseer of the work-house, ..	186
Inspector to search stores, warehouses and ropewalks and inspect, found there,	187
Unsound, found to be seized and forfeited,	187
One-half of forfeiture to go to the officer, the other half to the use of the poor,	187

HEMP.—Continued.

	Page.
Ropemakers to take oath not to work up unsound,	187
Penalty for working up unsound, ..	188
Application of penalty,	188
Inspector, appointed,	188
Fees of inspector,	188
Collector of excise to pay inspector of, one hundred pounds annually to pay bounties,	188
Inspector to account therefor with provincial treasurer,	188
Bounty on, abolished,	231-33

HIGHWAYS.

On application to quarter-sessions justices to grant a view of roads from or to the, to or from the plantation or dwelling-place of any person,	297
If found necessary, justices to order construction of road,	297
Width of road not to exceed thirty-three feet,	297
On being constructed and paid for, road to become a common road for the use of all persons who have occasion to travel to and from the plantation or dwelling-place of the petitioner,	297
To be kept in order by those using it,	297
Penalty for refusal or neglect to keep road in order,	297
If road laid out through improved ground, damages to be paid to owner of land by petitioner,	298
Owners of land through which road passes may maintain swinging gates across same by permission of justice,	298

HOGS. See Swine.

HOSPITAL.

Site reserved for, on Province Island,	384
Sick persons imported into province to be sent to,	386
Maintenance, &c., to be paid for by owner, master or importer,	386
Owner, master or importer to be compelled to give bond for maintenance, &c.,	386

	Page.		Page.
HOSPITAL.—Continued.		IMPOST. See Tariff; Taxes; Internal Revenue; Negroes; Servants.	
On refusal to be committed to prison,	386	IMPOTENT PERSONS. See Pauper.	
Record of persons sent to, to be kept,	387	If such found likely, masters, owners or importers of such persons to be proceeded against,	139
Patients not to be discharged without certificate of trustees,	387	Order of justices may be traversed by person aggrieved on giving recognizance,	139
Persons ordered to be sent to, not to be received or harbored under penalty of ten pounds,	387	IMPRISONMENT. See Bail; Freeman.	
Penalty to be paid to overseers of the poor,	387	Punishment for illegal sale of liquors near the iron-works enforced by, if no distress be found,	65-6, 302
To be recovered as debts under forty shillings,	387	Punishment for third offense of counterfeiting provincial brand-mark,	76, 255
Offender unable to pay penalty to be committed to workhouse or prison for one month,	388	Punishment for refusing to pay fine for neglect to appear and give evidence in regard to illegal sales of liquors,	161, 316, 402
HOUSEHOLDER.		Punishment for neglect to pay forfeitures for illegal sale of liquors if no sufficient distress be found, ..	162
Liable for county taxes due by sojourners or lodgers assessed at their residences,	21	Punishment for erecting dams and weirs in the Schuylkill if no distress be found,	195
Such taxes may be collected by distress,	21	Act for relief of Benjamin Mayne from,	223-25
May be received by, from such sojourner or lodger,	21	Punishment for retailing liquors without license,	244
HOUSEKEEPERS.		Punishment for refusing to pay fine imposed for failure to appear and testify on summons of justices as to offenses against act for recovering excise on wine, &c.,	245
To give notice of arrival of persons not settled in province,	268	Punishment, when no sufficient distress is found to satisfy fines accruing under act for reviving an excise on wine, &c., until satisfaction made,	246, 317, 403-4
Penalty for neglect to give notice, ..	268	Punishment for refusal of housekeeper to pay assessments of overseers of the poor in case no sufficient distress be found,	268
If persons received without notice become poor or die, to pay expenses of maintenance or burial, 269		Punishment for failure of retiring overseers to account and pay over moneys in their hands,	275
If they refuse to do so, overseers of the poor to assess a weekly rate or sum upon them for that purpose,	269	Punishment for failure of retiring overseer to pay over moneys which he is authorized to collect,	275-76
In case of refusal to pay, sum assessed to be levied by distress, 269		Punishment of defendant while no sufficient distress is found on execution issued by justice of the peace,	293
If no sufficient distress be found, offender to be committed to prison until assessment be paid,	269		
HUNDREDS.			
Each county to be divided into eight for selection of inspectors of elections,	332		
I.			
IMPARLANCE.			
Not more than one allowed, 8, 34, 53, 64, 77, 125, 142, 154, 214, 255			

	Page.
IMPRISONMENT.—Continued.	
Act for the more easy and speedy recovery of small debts not to extend to actions of trespass for,...	296
Punishment for failure of collector to collect and pay over internal revenue tax if no sufficient distress be found,	313, 400
Punishment for selling liquor without license,	315, 401
If no sufficient distress found or levy of execution in judgment of justice of the peace defendant to be imprisoned until debt and costs be paid,	341, 372
Action for, not to be tried before justice of the peace,	344, 375
Punishment for refusal of master, owner or importer of sick persons to give bond for their maintenance, &c., at Province Island, ..	386
Punishment in case of inability to pay fine for receiving or harboring in sick persons ordered to be sent to Province Island,	383
INDIANS.	
To prove that wolf's head was seen when green before being entitled to bounty,	15
Lands not to be purchased of, without consent of proprietary or deputies,	155
Grants from, contrary to law void, ..	156
Purchasers of such lands refusing to deliver possession deemed guilty of forcible entry and detainer, ..	156
Act not to apply to lands purchased of proprietaries or deputies, though purchase money be unpaid, ..	156
INDIAN SLAVES.	
Penalty for harboring,	62
INFANTS. See Paupers.	
Imported, to be examined as to the likelihood of their becoming a public charge,	139, 167
If such be found likely, masters, owners or importers of such, to be proceeded against,	139
Order of justices may be traversed by person aggrieved upon giving recognizance,	139

	Page.
INFANTS.—Continued.	
Found likely to become a public charge, owner or importer to give security to indemnify the province, ..	167
INFORMATION. See Action of Debt.	
Fines and forfeitures to be recovered by,	8, 34, 53, 64, 77
Value of negroes illegally imported to be recovered by,	125
Penalties under act establishing a ferry at Kirkbride's landing place to be recovered by,	130
Forfeiture for importing aliens without payment of duty recovered by,	138
Penalty for hawking or peddling without license to be recovered by, ..	142
Penalty for illegal publication of banns or celebration of marriage to be recovered by,	154
Penalty for landing passengers without permits to be recovered by bill, plaint or,	169, 366
Penalty for illegally exercising office of sheriff or under-sheriff to be recovered by,	214
Penalty for sale of liquors by collector of internal revenue to be recovered by,	248, 318
Penalties imposed by act to prevent the exportation of bread and flour not merchantable, to be recovered by,	255
Penalty for sale of flour by inspector or deputies for Philadelphia to be recovered by,	256
Penalty for neglect of duty of collector of tariff on convicts or his deputy to be recovered by bill, plaint or,	368
INFORMER.	
To receive one-half the fines and forfeitures collected under act for securing Philadelphia from damage by gun powder,	34
To receive one-half of fines and forfeitures accruing under the act to regulate the exporting of beef and pork,	77
To receive one-half of fines and forfeitures accruing under act for establishing certain ferries,	84

INFORMER.—Continued.

Page.

To receive one-half the value of negroes forfeited,	125
To receive one-half the forfeiture for illegally landing aliens, &c.,	138
To receive one-half of penalty for hawking or peddling without license,	142
To receive one-half the penalty for setting up lottery,	144
To receive one-half of forfeitures for selling liquors without license if sued by him,	161
To receive one-half of duty paid for imported convict,	164, 361
To receive one-half of forfeiture for illegally landing convict,	166, 363
To receive one-half the penalty for landing convict without paying duty,	169
To receive one-half the penalty for working up unsound hemp,	183
To receive one-half the penalty for illegally exercising office of sheriff or under-sheriff,	214
To sue for the recovery of penalties imposed for carrying on the trade of cooper or baker in Philadelphia in houses not built according to law,	216
To receive one-half the penalty for sale of liquors by collector of internal revenue or his deputy,	248, 318-19, 405
To receive one-half the penalty for sale of flour by inspector of bread and flour for Philadelphia or his deputy,	256
To receive one-half of penalty for erecting weirs, &c., in the river Schuylkill,	264
To receive one-half of penalty for neglect to give notice of arrival of persons not settled in province,	268
One-half of penalties accruing under act for regulating retailers of liquors near the iron-works to go to,	303
Allowance to, of persons convicted of forging or counterfeiting bills of credit,	358

INFORMER.—Continued.

Page.

Allowance to, of persons convicted of raising bills of credit,	358
To receive one-half the penalty for landing passengers without entry or permit,	366
To receive one-half the penalty for neglect of duty by collector,	368
Reward of, under act authorizing new issue of bills of credit the same as prescribed by former acts,	414-15

INQUEST.

To pass upon quality of flour intended for exportation in case of dispute between inspector and owner or shipper,	5, 252
To be appointed by magistrate,	6
Magistrate to enter judgment upon report of inquest,	5
To examine hemp,	70
To be appointed by magistrate,	70
Costs of, to be paid by owner of hemp,	70
To examine beef and pork designed for exportation in case of dispute between inspector and owner, ..	74
To be appointed by magistrate,	74
To view beef and pork and report, ..	74
To assess damages to be held by justices of common pleas,	94
Judgment to be entered on inquisitions as if held by sheriff,	94-5
To determine dispute as to quality of hemp,	186
To determine damages caused by setting woods, marshes, &c., on fire in cases where damages claimed are under forty shillings,	282
Execution to be issued on certificate of,	282

INSIMUL COMPUTASSENT.

Proprietaries' to declare 'upon, for arrearages of quit-rents,	325
--	-----

INSOLVENTS.

Imprisoned debtor may be discharged on delivering up all his effects to his creditors,	172
Debtor to present petition to court, ..	172

INSOLVENTS.—Continued.

Page.

All creditors to be brought into court,	172
On hearing, court to administer oath or affirmation to petitioner that he has given a true account of all his effects and has not transferred any at any time since his imprisonment,	172
If petitioner takes oath and creditors are satisfied, court to order effects to be assigned to creditors or some proper person, ...	173
Assignee to be vested with powers of assignees of bankrupts,	174
On execution of assignment petitioner to be released,	174
Assignee to distribute effects among creditors,	174
If creditors are dissatisfied, petitioner to be remanded for further hearing,	174
On further hearing, if no fraud is proved against petitioner court to discharge him unless creditors insist that he shall remain in jail and agree to pay a weekly sum for his maintenance,	174
On failure to pay weekly sum prisoner to be discharged,	174-75
If petitioner refuse to take oath or be detected in fraud, court to remand him,	175
Person discharged under act not to be arrested upon judgment or debts previously due,	175
If arrested, judge to discharge him on giving a warrant of attorney to appear and plead to the action,	175
In actions against officers for performing their duty under the act they may give the act in evidence under the general issue,	175
If plaintiff become nonsuit, suffer discontinuance or have verdict or judgment on demurrer against him, defendant to have treble costs,	175
Discharge under act not to acquit petitioner of debt,	175
Act not to extend to persons imprisoned at the suit of the Crown,	175

INSOLVENTS.—Continued.

Page.

Debts due from petitioner to be valid obligations notwithstanding discharge,	176
Judgment against petitioner to be a valid lien on his property,	176
Creditor may take out a new execution against him,	176
False taking of oath by insolvent punishable as perjury,	176
Conviction of perjury to nullify effects of discharge,	176
If effects not sufficient to pay all debts and gaoler's fees, gaoler to come in as a creditor and all to abate proportionately,	177
Mutual debts to be set off against each other,	177
Such matter to be given in evidence under the general issue if notice be given at the time of pleading,	177
Effects of petitioners not to be removed from leased premises without consent of landlord until one year's rent is satisfied,	177
Landlord may distrain from rent in arrears not exceeding one year,	177
Act not to bar creditors who had no notice of application,	177
Persons imprisoned for debts under forty shillings to apply to any two justices of the peace in the manner directed by this act,	178
To be discharged on taking like oath or affirmation and assigning all his effects to his creditors, ..	178
Petitioner not to be re-arrested for the same debt or costs,	178-79
Benefits of act for relief of insolvent debtors limited to actual prisoners,	211-12
Unmarried persons under forty, indebted less than twenty pounds, not entitled to benefit of act for relief of insolvent debtors,	212
Persons not entitled to benefit of act for relief of insolvent debtors may claim those of act about arrests and making debtors pay by servitude,	213

	Page.		Page.
INSOLVENTS.—Continued.		INSPECTOR.—Continued.	
Persons not residents of the province for two years not entitled to the benefit of the act for the relief of insolvent debtors,	213	Empowered to search all places or vessels to flour intended for exportation,	6
If plaintiff refuse or neglect to give security for prisoners' weekly allowance, &c., suit to be discontinued and prisoner discharged,	213	Deputy to have same powers,	6
Debtor owing less than forty shillings, having no effects and willing to make satisfaction by servitude to be adjudged thereto and discharged,	213	Penalty for obstructing, interfering with or molesting inspector or deputies,	6
Act for relief of Benjamin Mayne from imprisonment,	223-25	Salary of,	6
Act for recovery of small debts not to prevent release of,	293-94	Payment of salary,	6
Act for recovery of small debts not to affect right of common pleas to grant relief to,	341-42, 373	Appointed first,	6
		How successor to, shall be appointed,	7
		To take oath,	7
		To appoint deputies,	7
		Of beef and pork to record coopers' brand-marks,	73
		Fees for recording,	74
		Or deputy to examine all beef and pork designed for exportation,	74
		If found merchantable, to brand cask with provincial brand-mark,	74
		In case of dispute and inquest, if beef and pork found unmerchantable, owner to pay, five shillings per cask with costs,	74-5
		If found merchantable, to pay costs,	75
		Fees of, for inspecting and branding casks of beef and pork,	75
		One-half of fee to be paid by the buyer or shipper, the other half by the seiler,	75
		And deputies to have power to enter vessels and houses, &c., to search for beef and pork designed for exportation,	75
		Penalty for refusing to permit or obstructing search,	75
		Nathaniel Griffiths appointed, of beef and pork,	75
		In case of death, disability or neglect of duty, mayor and any two aldermen of Philadelphia to appoint successor who shall hold office until the assembly appoint another,	75
		To take oath before entering upon the duties of his office,	75
		Oath to be taken before a justice of the peace,	75
		Empowered to appoint deputies,	75
		Powers of officer bestowed upon deputies,	75
INSPECTION. See Bread; Flour; Inspector of Bread and Flour.			
Of flour intended for exportation,	5		
If flour passed, casks to be branded with provincial brand-mark,	5		
Fees for,	5		
In case of dispute as to merchantable quality of flour, magistrate to appoint inquest,	5		
Magistrate to enter judgment on report of inquest,	5		
If flour found unmerchantable, magistrate to order it not to be exported on pain of forfeiture,	5		
Fine and costs to be paid to inspector by owner,	5		
Owner to recover fine and costs from bolter,	5		
If flour found merchantable, costs to be paid by inspector,	5		
Inspector to take brand and marks and number of casks of condemned flour,	5		
If condemned flour is shipped again for exportation, burden of proof on owner or shipper,	5		
INSPECTOR.			
Of flour, fees for inspection,	5		

	Page.
INSPECTOR.—Continued.	
Penalty for counterfeiting provincial brand-mark,	73
Penalty for second offense,	76
Penalty for third offense,	76
Disposition of fines and forfeitures, ..	77
Recovery of fines and forfeitures, ...	77
INSPECTOR OF BREAD AND FLOUR.	
To unpack cask on suspicion or request of buyer and try tare,	250
If tare found incorrect owner to pay charges of unpacking and re-packing, if correct, inspector or buyer, as the case may be,	250
No flour to be exported without inspection,	251
Manner of inspection,	251-52
If found merchantable, casks of flour to be branded by inspector with provincial brand-mark,	252
In case of dispute between owner and inspector, magistrate on application to appoint inquest to examine flour and enter judgment on report of inquest,	252
If flour found unmerchantable owner to pay inspector one shilling per cask and costs,	252
If flour found merchantable, inspector to pay costs,	252
If flour adjudged unmerchantable, inspector to note brand-mark and numbers and marks of casks and note upon invoice numbers of casks found unmerchantable, ..	252-53
And deputies empowered to enter any vessel, house, &c., and search for flour intended for exportation, ..	253
Penalty for obstructing search,	253
Appointed for the several counties, ..	253
In case of incapacity, neglect, death or removal, justice of the peace to appoint successors until the assembly appoints another,	253-54
To take oath before entering upon office,	254
To appoint deputies, for whom he shall be accountable,	254

	Page.
INSPECTOR OF BREAD AND FLOUR.—Continued.	
To receive fines and forfeitures accruing under act, keep true accounts thereof, deliver the same to the magistrates of the county yearly at the time of appointing overseers of the poor, and pay one-half thereof to the overseers of the poor for the use of the poor, ..	256
To retain the other half for his own use as prosecutor,	256
To forfeit office for refusal or neglect to account,	256
For Philadelphia and his deputies not to deal in flour during continuance of act,	256
Penalty for dealing in flour contrary to act,	256
Penalty, how recoverable,	256
Application of penalty,	256
Offender to forfeit office on conviction,	256
Justices of Philadelphia to appoint another in his stead until assembly appoints successor,	256
INSPECTOR OF HEMP.	
To inspect hemp and pay bounty thereon,	185
In case of dispute between, and claimant, justice of the peace to appoint inquest to examine hemp, ..	186
If hemp found unmerchantable, to give order for its appraised value on the treasurer of Philadelphia city, and deliver hemp to the overseer of the workhouse,	186
Inspector to search stores, warehouses and ropewalks and inspect hemp found therein,	187
To seize unsound hemp,	187
To administer oath to ropemaker, ..	187
To receive one-half the value of forfeited hemp,	187
To take oath to perform the duties of his office faithfully,	188
Fees of inspector,	188
To account to provincial treasurer, ..	188

	Page.
INSPECTORS OF ELECTIONS. See	
Elections. .	
Mode of,	333
Mode of, in Philadelphia,	334, 378
To be qualified by oath or affirmation,	334, 379
Contents of oath,	334, 379
To administer oath to intending voters,	334-35, 379
To reject votes of those who refuse to take oath,	335, 380
To receive vote of those who take oath,	335, 380
Penalty for neglect to attend election,	336, 380
If person elected as inspector does not appear, another name to be drawn,	336, 381
INTEREST. See Bills of Credit.	
On mortgages to secure sums loaned by the trustees of the loan office, to be five per cent.,	351
INTERNAL REVENUE.	
Act laying an excise on liquors continued for three years,	71
Six pence per gallon to be paid on all liquors sold in less quantity than thirty-five gallons,	157
No liquor to be sold without license,	157
License to be granted by mayor, recorder and aldermen of Philadelphia and justices of the peace of the several counties,	158
Person licensed to give bond for payment of estimated sum in lieu of excise,	158
Bond to be payable to provincial treasurer,	158
Bonds to be delivered to the collector of excise,	158
Lists of persons licensed to be delivered to collector of excise and provincial treasurer,	158
Fee for granting license, &c.,	158-59
If justices neglect to estimate rate in lieu of excise, collector of excise to do so,	159
Collectors of excise appointed,	159
Powers of collectors,	159
Collectors to keep accounts,	159

INTERNAL REVENUE.—Continued.	Page.
Once in three months collector to pay sums collected to provincial treasurer, less ten per cent. commission and charges,	160
Collectors to give bond,	160
Condition and penalty of bond, ..	160
Penalty for selling liquors in less quantities than one quart, or without license in less quantities than thirty-five gallons,	160
Penalty, how recoverable,	160
Application of penalty,	160-61
On application of collectors justices to examine persons upon oath or affirmation for discovery of offenses against act,	161
Penalty for refusing or neglecting to appear and give evidence,	161
Forfeitures and offenses against act in Philadelphia to be heard before mayor and recorder or mayor or recorder and one alderman,	161
Forfeitures and offenses against act to be heard before any two or more justices of the county,	161
Party aggrieved may appeal to quarter-sessions,	161
Judgment of quarter-sessions to be final,	161
Justices, &c., strictly enjoined to proceed upon complaint or information of offense against act, ..	161-62
To award warrants to levy forfeitures upon goods of offenders, ..	162
To sell such goods if not redeemed within five days,	162
To imprison offender, in case no sufficient distress is found,	162
In suits and prosecutions for things done in pursuance of act, act and special matter to be given in evidence under the general issue, ..	162
If verdict be against plaintiff or prosecutor, or he become nonsuit or suffer discontinuance, defendant to recover treble costs,	162
Constables to return lists of vendors of liquors to quarter-sessions, ..	162
One hundred pounds of excise on liquors appropriated to the payment of the bounty on hemp,	163

	Page.
INTERNAL REVENUE.—Continued.	
Residue to be paid to provincial treasurer,	163
Provincial treasurer to retain five per cent. as compensation for his trouble,	163
Any drawing off, distributing or sharing of liquors out of any vessel containing thirty-five gallons and upwards deemed a retailing within the act,	163
Four pence per gallon to be paid on spirits sold in quantities under seventy gallons and on wine sold in quantities less than one hogshead,	239
Retailers of liquors to enter names and places of abode with collector of, and take license from him,...	239
Fee for permit,	239
No license to be granted for a less rate than three pounds per annum,	239
Retailers to enter sales of liquors with collector and pay rates due once every three months,	239-40
Retailers to give collector, with entry of name and place of abode, a true account of all liquors in their possession,	240
Retailers to enter liquors purchased with collector and receive certificate of each entry,	240
Fee for certificate,	240
Penalty for retailing without entering name and place of abode, ...	240
Penalty for failure to make entries required every three months or to pay rates due,	240
Penalty for subsequent offense,	241
License to be taken away and not to be granted again during continuance of act,	241
Liquors not entered to be forfeited,	241
Collectors and deputies to enter shops, houses, cellars, &c., compare liquors found with entries and seize those not truly entered,	241
Collectors and deputies, empowered to search for and gauge liquors at pleasure,	241
On refusal to permit him to do so may break open doors,	241

	Page.
INTERNAL REVENUE.—Continued.	
May call upon public officers for assistance,	241
Penalty for failure of officer to assist when called on,	241
Allowance for leakage and waste, ..	242
Liquor lost by bursting of cask not to pay revenue tax,	242
Collectors appointed,	242
Empowered to appoint deputies, ..	242
Powers and duties of collectors and deputies,	242
Collectors to keep fair and true accounts in writing,	242
To submit accounts to inspection of provincial treasurer and lay them before the assembly,	242
Collectors to pay to provincial treasurer every three months all sums received by them, less ten per cent. for collections,	242-43
Charges incurred to be allowed in settling accounts,	243
Provincial treasurer to pay certain sums to trustees of the loan office out of the receipts of the, tax on liquors,	243
Collector to give bond,	243
To give notice of time of commencement of act and duties imposed thereby,	243
To give constables full directions as to entries required by act,	243
In case any collector refuses to act, dies or is removed provincial treasurer to appoint successor, ..	244
Successor to have same powers and be subject to same liabilities as original collector,	244
Liquors not to be sold at retail in quantities less than one quart without license from the governor,	244
Penalty for selling without such license,	244
Person applying to quarter-sessions for recommendation to the governor for license to produce certificate from collector of, that all rates are paid,	244-45
Otherwise justices required not to grant recommendation,	245

	Page.
INTERNAL REVENUE.—Continued.	
Persons retailing notwithstanding liable to penalties imposed by act,	245
Justices of the peace on application of collector to summon and examine any person on oath or affirmation concerning offenses against the act,	245
Penalty for neglect or refusal to appear and testify,	245
Two aldermen of the city of Philadelphia and two justices of the peace of the counties to hear and decide forfeitures and offenses under the act,	245-46
Appeal to be from their decision to the quarter-sessions,	246
Judgment of the quarter-sessions to be final,	246
No alderman or justice who sat in the first hearing to sit in the appeal,	246
Aldermen and justices to proceed at once upon complaint of offense against act,	246
To award warrants to levy fines and forfeitures by distress,	246
To sell distress if not redeemed within five days,	246
If no sufficient distress found, to imprison offender until satisfaction is made,	246
Officers prosecuted or sued for things done in pursuance of act to give act and special matter in evidence under the general issue,	246-47
In case prosecutor or plaintiff becomes nonsuit, suffers discontinuance or verdict pass against him defendant to recover treble costs,	247
Constable to return to quarter-sessions names of all vendors of liquor liable to, tax under penalty,	247
Collector to have recourse to constables' returns,	247
Drawing, distributing or sharing liquors out of any cask into quantities less than seventy gallons each deemed a retailing thereof,	247
Distillers to sell to retailers liquors of his own distilling in quantities of not less than ten gallons,	247

	Page.
INTERNAL REVENUE.—Continued.	
Entry thereof to be first made with collector of, with oath that liquors are bona fide the product of the province,	247
Retailer to pay, tax therefor,	248
Collectors, deputies and persons appointed in their stead not to deal in liquors during continuance of act under penalty,	248
Penalty, how recoverable,	248
Application of penalty,	248
Conviction to disqualify for holding office,	248
On convictions provincial treasurer to appoint another until assembly appoints successor,	248
Appointee to have powers and be subject to liabilities as original collector or deputy,	248
Four pence per gallon to be paid on all spirits sold in quantities of less than seventy gallons and wine sold in quantities of less than one hogshead,	309
Retailers to enter name and place of abode with collector of,	309
To receive permit from collector to sell liquors,	309
Fees for permit,	309
Permit not to be granted unless applicant shall give security for payment of rates imposed by act to an amount not less than three pounds,	309
Retailers to make entry on oath with collector of liquors sold at least every three months,	309-10
Rates due to be paid at least every three months,	310
On entering name, retailer to give collector a true account of all liquors in his possession,	310
To make entry of all liquors subsequently purchased and received certificate of entry,	310
Fee for certificate,	310
Penalty for selling liquors without entering name,	310
Penalty for refusing or neglecting to make entries or account for rates due,	310-11

INTERNAL REVENUE.—Continued.	Page.
Penalty for second offense,	311
Penalty, how recoverable,	311
No new permit to be granted during continuance of act,	311
Rates due and unpaid to be collected by distress on warrant from a justice of the peace,	311
Liquors to be forfeited if retailer makes fraudulent entries or neglects to enter liquors purchased,	311
Collector and deputies empowered to enter houses, cellars, or vaults, &c., compare liquors and seize those not truly entered,	311
Collectors and deputies may enter and search houses, stores, cellars, &c., to search and gauge liquors,	311-12
If entrance refused, may break open doors,	312
If resisted may summon peace officers to assist them,	312
Penalty for refusal to assist,	312
Allowance for leakage and wastage,	312
No duties to be paid for liquors lost by bursting of cask,	312
Collectors appointed,	312
Powers and duties of collectors, ...	312
Collectors to keep accounts and submit them to the provincial treasurer,	313
Accounts to be laid before assembly when required,	313
Sums collected to be paid by collectors to provincial treasurer every three months,	313
Commissions allowed collectors with charges of prosecution under act,	313
Collectors to further receive one-half of all forfeitures recovered by them for offenses against act, ..	313
Collector to pay all arrearages of excise which should have been collected by him,	313
Arrearages to be levied by distress on warrant under the seal of two magistrates,	313
If no sufficient distress found, offender to be imprisoned until payment made,	313

INTERNAL REVENUE.—Continued.	Page.
Collector forced to pay arrearages of excise by distress may distrain for his own use upon all persons liable to pay said arrearages, ..	313-14
Collectors to give bond,	314
To give notice of commencement of act and of duties of constables with full directions as to making entries,	314
If collector appointed refuses to act misbehaves himself or dies, provincial treasurer to appoint another until assembly appoints successor,	314
Successor to have all powers of original collector,	314
Justice of the peace on application to summon any person to give evidence on oath for discovery of frauds against act,	316
Penalty for neglect or refusal to appear and give evidence,	316
On refusal to pay penalty, offender to be committed to prison until it be paid,	316
Penalties accruing in the city of Philadelphia to be adjudged before two or more aldermen; in the counties, before two or more justices of the peace,	316
Appeal to be from decisions of justices to quarter-sessions,	316
Judgment of quarter-sessions to be final,	316
Aldermen or justice who sat on first hearing, not to sit on appeal, ...	316-17
On complaint made of offense against act, aldermen and justices required to hear and determine the same and collect penalties by distress,	317
Distress to be sold within five days if not redeemed,	317
For want of sufficient distress offender to be imprisoned until satisfaction is made,	317
Officers sued or prosecuted for anything done in pursuance of act to give act and special matter in evidence under the general issue, ..	317

	Page.		Page.
INTERNAL REVENUE.—Continued.		INTERNAL REVENUE.—Continued.	
In suits or prosecutions for things done in pursuance of act, if plaintiff become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover treble costs,	317	On entering name retailer give true account to collector of liquors in possession,	396
Constables to return lists of vendors of liquors to quarter-sessions, ...	317	To make entry of all liquors purchased, and receive certificate thereof,	397
Collectors to have access to lists, 317-18		Fee for entry and certificate,	397
Drawing or distributing of liquors in less quantities than seventy gallons deemed a retailing,	318	Penalty for retailing liquors without entering name and place of abode, 397	
Distillers to sell own product in quantities of not less than five gallons without paying duty,	318	Penalty for refusal or neglect to enter liquors purchased or account for taxes due,	397
Retailer to pay duty thereon,	318	Penalty for second offense,	397
Collectors and deputies not to sell liquors during continuance of act, 318		On conviction of second offense permit to be taken away and not to be granted again during continuance of act,	397
Penalty for so selling,	318	Tax overdue to be levied by distress and sale of the delinquent's goods, 397	
Penalty, how recoverable,	318	Liquor falsely entered to be forfeited,	398
Application of penalty,	318-19	Collectors authorized to enter any house, store, cellar, &c., to compare liquors and seize liquors not truly entered,	398
On conviction office to be forfeited, 319		Collectors authorized to enter any house, store, cellar, &c., and search for and gauge liquors,	398
Provincial treasurer to appoint another in the stead of the offender until assembly appoints successor, 319		In case of resistance or opposition to summon peace officers to their assistance,	398
Appointed to have powers of original collector,	319	Penalty for refusing to assist collectors,	398
Provincial treasurer to deliver to new collector lists of outstanding sums due under former act,	319	Allowance for leakage and wastage, 398	
Collectors to recover same in manner directed for recovering the excise under the present act,	319	If cask shall burst tax not to be paid on liquors lost,	398
Moneys so recovered to be paid to provincial treasurer,	319	Collectors of, tax appointed,	398-99
Act to continue in force until September 1, 1743,	319	Collectors to appoint deputies,	399
All liquors sold in quantities of less than seventy gallons to pay, tax of four pence per gallon,	395	Powers and duties of collectors, ..	399
Retailers to enter names and places of abode with collector of, tax, 395-96		Collectors to keep accounts,	399
Collector to grant permit to retail liquors,	396	Accounts to be submitted to provincial treasurer and to assembly, ..	399
Fee for entry of name and permit, 396		Collectors to pay tax collected to provincial treasurer every three months,	399
No permit to be granted for less sum than three pounds per annum, ...	396	Commissions of collectors,	399
Retailers to make entry with collector of liquors sold and pay over taxes due every three months, ..	396	Collectors failing to collect, tax due, to be responsible for arrearages, 400	

INTERNAL REVENUE.—Continued.	Page.
Arrearages to be recovered of collector by distress,	400
If no sufficient distress found, offender to be imprisoned until payment be made,	400
Collector paying arrearages to detain on person from whom the same is due,	400
Collectors to give bond,	400
To give public notice of commencement of act and inform constables of their duties,	400
If collector appointed refuse to serve, misbehave or die provincial treasurer to appoint another until assembly appoints successor,	401
No person to be recommended for renewal of license from governor unless, tax is paid up,	401
Justices of the peace to summon and examine persons as to offenses against act,	402
Penalty for refusal to appear and give testimony,	402
Offender to be committed to prison until fine is paid,	402
Offenses against act to be tried before two aldermen of Philadelphia or two justices of the peace of the counties,	403
Appeal to be to quarter-sessions, ..	403
Judgment of quarter-sessions to be final	403
Alderman or justice who heard cause not to sit on appeal,	403
Aldermen and justices required to proceed upon complaint of offense against act,	403
To give judgment, award warrant of distress to levy fines and to transmit offender to prison until fine is paid,	403-4
Persons sued or prosecuted for things done in pursuance of act to give the act in evidence under the general issue,	404
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover treble costs, ...	404

INTERNAL REVENUE.—Continued.	Page.
Constables to return the names and abodes of all retailers to quarter-sessions,	404
All drawing, distributing or sharing of liquors out of cask in any quantity less than seventy gallons deemed a retailing,	404
Distillers within province to sell own product to retailers in quantities of not less than five gallons without paying tax on making entry thereof with collector, ...	404-5
Collectors of, tax on liquors, their deputies and successors not to trade in liquors during continuance of act,	405
Penalty for trading in liquors by collector or deputy,	405
Penalty, how recoverable,	405
Application of penalty,	405
On conviction collector or deputy to forfeit office,	405
Provincial treasurer to appoint another in place of offender until assembly appoints successor,	405
Provincial treasurer appointed to receive, tax,	405-6
Powers and duties of treasurer, ...	406
Treasurer to give bond,	406
In case of death or removal of treasurer, assembly to appoint successor,	406
Commissions of provincial treasurer on receipts of, tax,	406
Sums due upon former excise acts to be recovered by newly appointed collectors,	406
Provincial treasurer to deliver account of sums yet due to collectors,	406
Act to continue in force until June 1, 1749,	406-7
INTESTATE'S ESTATES. See Decedents' Estates.	
Goods of, may be sold at auction without license,	145
INVOICE.	
Penalty for fraudulent, of net proceeds or weight of flour, &c., for exportation,	4

INVOICE.—Continued.

	Page.
Penalty, how recoverable,	8
Application of penalty,	8
Of contents of casks of bread and flour to be delivered therewith, ..	250
Penalty for failure to deliver,	250
Penalty for invoicing bread or flour at more than its true weight, ..	250-51
Penalty for unlawfully making fraudulent,	251
Number of casks of flour found unmerchantable to be noted on, ..	252

IRISH SERVANTS. See Aliens; Tariff; Servants.

IRON-WORKS.

Public house not to be kept or liquors not to be sold within two miles of, without permit from majority of owners,	65
Penalty for violation of act,	65
Penalty, how recoverable,	65
If no distress found, offender to be imprisoned for twenty days,	65-6
No person to be licensed to sell liquors near the, before giving recognizance for compliance with act,	66
No person to be licensed to sell liquors in any part of the province before giving recognizance for observance of the excise act, ..	66
One-half of fines and forfeitures collected under act to go to the governor; the other half to the prosecutor,	66-7
Liquors not to be sold within three miles of any iron furnace under license without consent of majority of owners of furnace,	302
Penalty for offense against act, ...	302
Penalty, how recoverable,	302
If no sufficient distress found, offender to be imprisoned for twenty days,	302-3
Quarter-sessions to appoint prices for liquors retailed near iron furnaces,	303
Penalty for taking greater prices,...	303
Application of penalty,	303
Duration of act limited to five years,	303

J.

JAILERS. See Bailiff; Gaolers.

To share as creditors in distribution of assigned estate of insolvent, .. 177

JUDGE OF ELECTION.

To preside over selection of inspectors of election, 333, 334, 378, 350, 356
To administer oath to inspectors, 334, 379

JUDGES.

Penalty for violation by, of law exempting freeholders from arrest,
 29 || Penalty, how recoverable, | 29 |

JUDGES OF THE SUPREME COURT.

Of court of record, writ of error to lie to the supreme court,
 87 || To be commissioned by governor, .. | 88 |
Powers and duties of,	88
One to be appointed chief justice, ..	88
Any two empowered to hold court, ..	88
To hear cases removed before them by writ of error,	89
To punish defaults of public officers, ..	89
To award process to levy fines and forfeitures,	89
To nominate prothonotary of the supreme court,	90
Any two to hold courts of oyer and terminer and gaol delivery,	91
Fees of, to be double those of judges of quarter-sessions,	91
Not to issue original writs except as provided by act,	91-92

JUDGMENT, INTERLOCUTORY.

Inquest to assess damages on, to be held by court of the common pleas,
 94 |

JUDGMENT BY DEFAULT.

For want of appearance,
 27-8 |

JUDICIAL NOTICE.

To be taken of act passed May 26, 1744, for the new appointment of trustees of the general loan office of Pennsylvania, &c.,
 415 |

JUDICIAL SALES.

Goods may be sold at, without license,
 145 |

	Page.
JUSTICES OF THE PEACE.—Continued.	
Order of justices may be traversed by person aggrieved on giving recognizance,	139
Not to sign publication of marriage unless one of the parties lives in the county and in case of minors unless certificate of consent of parents, &c., be produced,	153
Penalty for celebrating marriages contrary to act,	153-54
Penalty, how recoverable,	154
To grant license to sell liquors,	158
To set rate of license in lieu of excise,	158
If, neglect to set rate, collector of internal revenue to do so,	159
On application of collector, justices to examine persons concerning offenses against act imposing internal revenue tax on liquors, ..	161
Two or more, to determine all forfeitures and offenses under act imposing internal revenue tax on liquors,	161
Required to proceed upon complaint of offense,	161
To award warrant to levy forfeiture on goods of offender,	162
To sell goods if not redeemed within five days,	162
If sued or prosecuted for things done in pursuance of act to give act and special matter in evidence, under the general issue,	162
To arrest and examine convicts, &c., found within the province within twelve months after their arrival, as to the time and manner of their importation, and oblige them to pay duty,	165
To examine importers of such persons and bind them over to the quarter-sessions,	166
Two, to examine poor and impotent persons as to the likelihood of their becoming a public charge, ..	167
Two, to compel owner or importer to give security to indemnify province against charge,	167
Appeal from judgment of, to lie to quarter-sessions,	167

	Page.
JUSTICES OF THE PEACE.—Continued.	
Collector to notify, of all passengers imported,	168
To examine importer, and grant permit to land such passengers as are found fit,	168
Fees for granting permit,	169
On application of inspector of hemp, to appoint inquest to determine disputes as to quality of hemp, ..	186
Two, to hear complaints of the erection of dams and weirs in the Schuylkill River and abate same, 195	
To summon and examine persons as to offenses committed against act for reviving an excise on wine, &c., on application of collector, &c.,	245, 402
Two or more, in the counties to hear and determine forfeitures and offenses against act reviving an excise on wine, &c.,	246, 316, 403
Appeal to lie to quarter-sessions from judgment of, ...	246, 277, 316, 403
Judgment of quarter-sessions to be final,	246, 277, 316, 403
Who sat in first hearing not to sit on appeal, ...	246, 316-17, 343, 374, 403
On complaint, to summon and try party accused and give judgment, 246	
To levy fines and forfeitures by distress or imprisonment,	246
To sell distress if not redeemed within five days,	246
If sued or prosecuted for anything done in pursuance of act, to give act and the special matter in evidence under the general issue, 246-47,	404
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover double costs, 247,	404
Majority of, to appoint another to act in case of removal, disability or death of inspector of bread and flour until assembly appoints successor,	254
One, to administer oath to inspector, 254	
To try complaints for grinding unscreened or unmerchantable wheat or bolting undried meal,	255

	Page.
JUSTICES OF THE PEACE.—Continued.	
Of Philadelphia, to appoint another to act in stead of inspector who has forfeited his office until assembly appoints successor,	256
To bind over to quarter-sessions persons accused of erecting or maintaining or assisting to erect and maintain weirs, dams, racks, &c., in the river Schuylkill,	264
To issue warrant to highway surveyors to summon inhabitants of townships adjacent to weirs, dams, &c., to remove same,	265
To commit to prison persons refusing to pay assessment of overseers of the poor until the same be paid,	268-69
Any two, to subscribe certificate of settlement,	270
Any two, to levy sums expended on maintenance and burial of paupers by distress on goods of overseers of places of last settlement if they refuse to pay the same,	271
Any two, to approve poor rate,	273
To receive duplicate of rate,	273
To receive accounts of retiring overseers of the poor,	275
On refusal or neglect to account and pay over moneys any three, to commit overseer to gaol,	275
On refusal or neglect to pay over moneys which they are authorized to collect any three, to commit overseers to gaol,	276
In case of death of overseer, any two, to appoint successor,	276
Any two, to levy, by distress fines and forfeitures imposed by "A supplement to the several acts for the relief of the poor,"	276
To have jurisdiction of actions for damages caused by setting on fire woods, marshes, &c., where damages claimed are less than forty shillings,	281
To appoint inquest to determine damages and issue execution on certificate of inquest,	282
To have jurisdiction of servants, negroes and slaves setting woods on fire without direction of master,	282

	Page.
JUSTICES OF THE PEACE.—Continued.	
To have jurisdiction of actions for demands under five pounds, 291, 339,	371
To issue warrant in the nature of capias or summons to constable to bring defendant before him, 291-92, 339	
When writ shall be returnable, 292, 340,	371
Justice to hear cause by himself or by auditors or referees and enter judgment with costs as in case of debts under forty shillings, ..292,340,	371
Process against freeholder to be by summons,	292, 340, 371
If defendant does not appear alias summons to issue,	292
If defendant does not appear to alias justice to hear and decide cause in his absence,	292, 340,, 371
Justice to award execution on judgment,	293, 340, 371
Execution to be by distress, 293, 340, 371	
If no sufficient distress be found, defendant to be committed to gaol until debt and costs are paid, 293, 340,	372
Stay of execution against freeholders,	293
Execution against non-freeholder to be stayed on giving special bail, 293	
If plaintiff become nonsuit or judgment pass against him, defendant to be awarded costs,	293
Act not to prevent release of insolvent debtors,	293-94
Appeal to lie from judgment of justice to common pleas, except in cases heard by auditors or referees, 294	
Appellant to give recognizance to prosecute appeal,	294, 342, 373
Justices to keep record of causes heard before them,	294, 342, 373
On appeal, transcript of record to be sent to prothonotary of the common pleas,	294, 342, 373
Fees for transcript,	294, 342, 374
Who heard cause below not to sit on appeal,	295
No costs to be recovered in cases prosecuted otherwise than as directed by act,	295, 343, 375
Exceptions,	295

	Page.
JUSTICES OF THE PEACE.—Continued.	
Act not to extend to certain ac- tions,	296, 344, 375
Duration of act,	296, 344, 375
To issue warrant of distress to col- lect internal revenue tax due, ...	311
On complaint to summon and ex- amine persons to give evidence on oath for discovery of offenses against act,	316
Penalty for refusal to appear and give evidence,	316
Justices authorized and enjoined on complaint to summon accused, proceed to judgment and levy fines by warrant of distress,	317
One empowered to administer oath to collector of duty on persons convicted of heinous crimes,	320
Sheriff or gaoler to be liable for escape of defendant,	340-41, 372
Transcript of judgment may be filed in other counties,	341, 372
Plaintiff to have execution on trans- cript,	341, 372
Execution against freeholder to be stayed for three months,	341, 372
Execution against persons not free- holders to be stayed for three months on entry of bail,	341, 372
If plaintiff become nonsuit or judg- ment pass against him defendant to have costs,	341, 373
Act not to affect right of court to grant relief to insolvent debtors, 341- 42, 373	
Appeal to be to common pleas from judgment of,	342, 373
Proceedings in appeal regulated, 342, 374	
Costs of suit appealed to be two- thirds usual costs,	343, 374
To administer oath of office in cer- tain cases,	350, 357-58
Any one, to meet and examine im- ported persons as to the manner of their importations,	361
Any two, to send for and examine importer, if it appears that im- ported persons were shipped from Pennsylvania,	362
If it appears that they were illegally landed to bind importer over to quarter-sessions,	362

	Page.
JUSTICES OF THE PEACE.—Continued.	
Any two, to examine paupers, lunatics, &c., as to the likelihood of their becoming a public charge, 363	
If such appears likely, to order im- porter to give security to remove them or to otherwise indemnify the public,	363-64
Appeal to lie from decision of, to quarter-sessions on giving recog- nizance,	364
Decision of quarter-sessions to be final,	364
To examine importer of passengers and grant permit to land fit per- sons,	365
Fee for granting permit,	365
Any two, to order sick persons im- ported to be sent to Province Island,	386
One of the, to order master, owner or importer of sick person sent to Province Island to give security for his maintenance, &c.,	386
On appeal to give bond to commit master, owner or importer to prison,	386
Not to recommend retailers of liquors for renewal of license ex- cept upon certificate of collector that internal revenue tax has been paid,	402
Required to proceed upon complaint of offense against act, give judg- ment, award warrant of distress, and imprison offenders if no suffi- cient distress found,	403-04

L.

LANCASTER COUNTY.

Erected out of part of Chester county,	131-32
Boundaries between, and Philadel- phia and Chester counties,	132
To have same rights, privileges, &c., as other counties,	132
To elect four representatives to the general assembly,	132
Taxes already assessed to be paid to treasurer of Chester county, ..	132

LANCASTER COUNTY.—Continued.	Page.	LANDLORD AND TENANT.	Page.
Acts under which taxes were assessed to remain in force until same are collected,	133	Assigned effects of insolvent not to be removed from leased premises until one year's rent is satisfied, 177	
Courts of quarter-session and common pleas to be held in, on the first Tuesday of February, May, August and November,	133	Landlord may distrain for at least one year's rent,	177
Place of holding courts until court-house is erected,	133	LANDS.	
Courts to be held at court-house when erected,	133	Conveyance of title to land sold in execution after death of officer who made sale,	96-7
Elections to be held at court-house,	133	Not to be purchased of natives without consent of proprietary or deputies,	155
Three persons to be chosen as commissioners the first year,	133	Grants thereof avoided,	156
Certain persons authorized to select and purchase site for court-house, with approval of governor,	133	Purchasers of such, deemed guilty of forcible entry and detainer,	156
To cause court-house and prison to be erected thereon,	133	Act not to apply to, purchased of proprietaries or deputies, though purchase money be not paid, ...	156
Tax not exceeding three hundred pounds to be levied to defray expense of building court-house and prison in,	134	LARCENY.	
Actions pending in Chester county against inhabitants of, not to be discontinued by reason of act, ...	134	Extra duty to be paid for importation of negro transported for, ...	60
Justice of Chester county authorized to issue process in such suits to sheriff of,	134	LEAKAGE.	
Sheriff directed to obey writs and return them to justices of Chester county,	134	Of liquors, allowance for, ..242, 312, 398	
Three hundred pounds in bills of credit loaned to build a court-house and prison in,	151	LEGACIES. See Decedent's Estates.	
Said loan to be sunk by a tax levied upon the inhabitants of the county,	151-52	LEGAL TENDER.	
Three hundred pounds in bills of credit to be delivered to the treasurer of,	207	Bills of credit to be,	348, 414
To be sunk by tax levied,	208	LICENSE.	
Collector of internal revenue tax appointed for,	242	Not to be granted for sale of liquors near the iron-works before recognizance given for compliance with act,	66
Bond of collector,	243	Not to be granted for sale of liquors in any part of the province before recognizance given for compliance with excise act,	66
Offenses against act to more effectually prevent the erecting of weirs, dams, &c., within the river Schuylkill to be laid and prosecuted in,	265	License to sell liquors not to be granted to persons licensed to sell beer and cider,	66
Collector of internal revenue tax on liquors appointed for,	399	Granting of such license by collector of excise deemed official misbehavior and a forfeiture of his bond,	66
Bond of collector,	400	Liquors not to be sold without, in less quantities than one quart, 71, 315	
		License to be granted by governor, 71	
		Penalty for selling without,71, 315	
		Of hawkers and peddlers to be granted by the governor on recommendation of justices of county court,	141-42

	Page.
LIQUORS.—Continued.	
Permit not to be granted for less rate than three pounds per annum,	239
Quantity of spirits retailed to be entered with collector every three months,	239-40
Retailer to account to collector every three months for tax due, ..	240
Retailers to give to collector a just account of all, in their possession, ..	240
To make entry with collector of all, purchased,	240
To receive certificate of entry on request,	240
Fee for giving certificate,	240
Penalty for selling without permit from collector,	240
Penalty for neglecting or refusing to make entries required or for making false entries,	240-41
Penalty for second offense,	241
Penalty for third offense,	241
Not entered or falsely entered to be forfeited,	241
Collector empowered to enter houses, shops, &c., and seize, forfeited, ..	241
Fifteen per cent. to be allowed retailers for leakage and waste, ...	242
Internal revenue tax not to be paid on, lost by bursting of cask,	242
Not to be sold in quantities of less than one quart, without license from the governor,	244
Penalty for selling without license, ..	244
License not to be renewed without certificate of collector that internal revenue tax has been paid,	245
Constables to return to quarter-sessions names of all vendors of, ...	247
Drawing, distributing or sharing, out of cask into any quantities less than seventy gallons each deemed a retailing thereof,	247
Distiller may sell own distillation in quantities of not less than ten gallons on making entry with collector and making oath that, sold are the bona fide product of the province, ..	247
Collectors, deputies and those appointed in their stead not to sell, during the continuance of this act under penalty,	248

	Page.
LIQUORS.—Continued.	
Penalty, how recoverable,	248
Application of penalty,	248
Offense to disqualify for office, ...	248
Provincial treasurer to name another to act instead of the officer so disqualified until the assembly appoints his successor,	248
Not to be sold under license within three miles of any iron furnace except with consent of majority of owners,	302
Penalty for offenses against act, ...	302
Penalty, how recoverable,	302
If no sufficient distress found, offender to be imprisoned for twenty days,	302
Quarter-session to fix prices of, retailed near iron furnaces,	303
Penalty for taking greater prices, ...	303
Application of penalty,	303
Duration of act limited to five years, ..	303
Internal revenue tax of four pence per gallon to be paid on all, sold in quantities of less than seventy gallons,	309
Retailers of, to enter name and place of abode with collector of internal revenue,	309
Collector to grant permit to retail, ...	309
Fee for permit,	309
No permit to be granted for a less rate than three pounds per annum,	309
Entries of, sold to be made on oath with collector every three months,	309-10
Internal revenue taxes due to be paid to collector every three months,	310
On entering name and place of abode retailer to give account to collector of all, in his possession, ..	310
To enter all, subsequently purchased and receive certificate thereof, ...	310
Fee for granting certificate,	310
Penalty for selling, without entering name and place of abode,	310
Penalty for neglect to make entries or pay over internal revenue tax as required by act,	310-11
Penalty for second offense,	311
Penalty, how recoverable,	311

LIQUORS.—Continued.

	Page.
Collectors of internal revenue tax appointed,	398-99
Collectors to appoint deputies,	399
Powers and duties of collectors,	399
Collectors to keep accounts,	399
Accounts to be submitted to provincial treasurer and to assembly, ..	399
Collectors to pay tax collected to provincial treasurer every three months,	399
Commissions of collectors,	399
Collectors failing to collect internal revenue tax due to be responsible for all arrearages,	400
Arrearages to be recovered of collector by distress,	400
If no sufficient distress found offender to be imprisoned until payment be made,	400
Collector paying arrearages to detain on person from whom the same is due,	400
Collectors to give bond,	400
To give public notice of commencement of act and inform constables of their duties,	400-01
If collector appointed refuses to serve, misbehave or die, provincial treasurer to appoint another, until assembly appoint successor,	401
Not to be retailed in quantities of less than one quart, without license, from the governor,	401
Penalty for selling without license,	401
No person to be recommended for renewal of license without certificate that internal revenue tax is paid,	402
Penalty for retailing without renewal of license,	402
Justice of the peace to summon and examine persons as to offenses against act,	402
Penalty for refusal to appear and give testimony,	402
Offender to be committed to prison until fine paid,	402
Offense against act to be tried before two aldermen of Philadelphia or two justices of the peace of the counties,	403
Appeal to be to quarter-sessions, ..	403

LIQUORS.—Continued.

	Page.
Judgment of quarter-sessions to be final,	403
Alderman or justice who heard cause not to sit on appeal,	403
Aldermen and justices required to proceed upon complaint of offense against act,	403
To give judgment, award warrant of distress to levy fines and to commit offender to prison until fine is paid,	403-04
Persons sued or prosecuted for things done in pursuance of act to give the act and special matter in evidence under the general issue,	404
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover treble costs,	404
Constables to return the names and abode of all retailers of, to quarter-sessions under penalty,	404
All drawing, distributing or sharing of, out of casks in any quantity less than seventy gallons deemed a retailing,	404
Distillers within province may sell over product to retailers in quantities of not less than five gallons without paying tax or making entry thereof with collector, ...	404-05
Collectors of internal revenue tax, deputies and successors not to trade in, during continuance of act,	405
Penalty for trading in, by collector or deputy,	405
Penalty, how recoverable,	405
Application of penalty,	405
On conviction collector or deputy to forfeit office,	405
Provincial treasurer to appoint another in place of offender until assembly appoints successor,	405
Provincial treasurer appointed to receive internal revenue tax,	405-06
Powers and duties of treasurer,	406
Treasurer to give bond,	406
In case of death or removal of treasurer, assembly to appoint successor,	406

	Page.
LIQUORS.—Continued.	
Commissions of provincial treasurer on receipt of internal revenue tax on,	406
Sums due under former excise acts to be recovered by collector appointed under the present act, ..	406
Provincial treasurer to deliver account of all sums yet due to collectors,	406
Act to continue in force until June 1, 1749,	406-07
LOAN OFFICE. See Trustees of the Loan Office.	
LOTTERIES.	
Prohibited under penalty,	143-44
Application of penalty,	144
LUNATICS. See Paupers.	
Imported, to be examined as to the likelihood of their becoming a public charge,	139, 167
If such found likely, masters, owners or importers of such, to be proceeded against,	139
Order of justices may be traversed by person aggrieved upon giving recognizance,	139
If such found likely, owner or importer to give security to indemnify province,	167
M.	
MAGISTRATES.	
To have jurisdiction of disputes between inspectors and owners or shippers of flour as to the merchantable quality thereof,	5
To bind out vagrant free negroes, ..	62
Not to join negro in marriage with white person under penalty,	62
In case of disputes as to merchantable quality of hemp, to appoint inquest on application of owner, 69-70	
To enter judgment on report of inquest,	70
To take recognizance from person licensed to sell liquors or keep public houses and return it to quarter-sessions,	72
Fees for taking recognizance,	72

	Page.
MAGISTRATES.—Continued.	
On application to appoint inquest to examine beef and pork designed for exportation,	74
If beef or pork found unmerchantable, to order it not to be exported on pain of forfeiture and to order owner to pay inspector five shillings per cask with costs,	75
Receiving forged or counterfeited bills of credit to hand them over to the trustees of the loan office,	113
To arrest and examine convicts, &c., found within the province within twelve months after their arrival, as to the time and manner of their importation and oblige them to pay duty,	166
To examine importers of such persons and bind them over to the quarter-sessions,	168
Two, to adjudge insolvent debtor to make satisfaction by servitude if he be willing,	213
Two, to hear complaints of violation of act regulating the construction of coopers' shops and bake-houses in Philadelphia,	216
Appeal to lie from judgment of, to common pleas,	216
Judgment of common pleas to be final,	216
Sued or prosecuted for things done under act reviving an excise on wine, &c., to give the act and the special matter in evidence under the general issue,	246-47, 317
To recover treble costs if plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him,	247, 317
To award inquest to inspect flour in case of dispute between owner and inspector and enter judgment on report of inquest,	252
Lists of fines collected under act to prevent the exportation of bread and flour not merchantable to be delivered to, yearly by importer, 256	
To order removal of pauper within twelve months after arrival, ..	267-68

MAGISTRATES.—Continued.

Page.

Two, to hear complaints of neglect to give notice of arrival of persons not settled within the province,	268
Any two, to approve poor rate,	272
To examine and settle accounts of overseers of poor yearly,	274
To receive and settle accounts of retiring overseers of the poor,	275
Two, to issue warrant to levy arrearages of internal revenue tax on goods of collector who neglects or refuses to collect and pay over same,	313
To arrest and examine persons found in province, as to the manner of their importation within twelve months after their arrival,	361-62
If it appears that they were shipped from Pennsylvania to send for and examine importer,	362
If it appears that they were illegally landed to bind importer over to quarter-sessions,	362
Penalty on conviction of illegally landing passengers,	362-63
To examine paupers, lunatics &c., as to the likelihood of their becoming a public charge,	363
If such appears likely to order importer to give security to remove them or to otherwise indemnify the public,	363-64
Appeal to be from decision of, to quarter-sessions on giving recognition,	364
Judgment of quarter-sessions to be final,	364
To examine importers of servants and passengers and grant permit to land fit persons,	365
Fees for granting permit,	365
To have jurisdiction of suits for recovery of penalty for receiving or harboring sick persons ordered to be sent to the Province Island, ..	387
In case of disability of offender to pay penalty to commit him to prison or workhouse for one month,	388

MAGISTRATES.—Continued.

Page.

To issue warrants of distress to levy arrearages of internal revenue tax on goods of collector,	400
Sued or prosecuted for anything done in pursuance of act for laying an excise on wine, &c., to give the act and special matter in evidence under the general issue,	404
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him, magistrate to recover treble costs,	404

MAIMED PERSONS. See Impotent Persons.

MAINPRISE.

Not allowed to offenders against act regulating the sale of liquors near the iron-works,	65
--	----

MANUFACTURES.

Of province may be peddled without license,	143
In case of dispute, hawker or peddler to declare on oath before a justice of the peace or other magistrate that goods are the, of the province,	143

MARRIAGE.

Ministers, &c., not to join negroes in, with white persons, under penalty,	62
Negro intermarrying with white person to be sold as slave for life, ..	63
Justice of the peace not to subscribe his name to publication of, unless one of the parties live in the county and certificate of consent of parents, &c., be produced if one of the parties is a minor,	153
Banns not to be published except under same conditions,	153
Penalty for publishing banns or celebrating, contrary to act,	153-54
Penalty, how recoverable,	154
Act not to extend to, celebrated in religious society to which parties belong nor to, celebrated by license with consent of parents, &c., ..	154

MORTGAGES.—Continued.		Page.
Payments to be endorsed on back of mortgage and counterpart,	108	
To be discharged by last payment, ..	109	
Discharge to be entered on margin of record at mortgagor's expense, 109		
Fee for entering discharge,	109	
Attested copy of entry to be equivalent to reconveyance,	109	
On default, trustees to foreclose at law or enter upon and sell mortgaged premises,	109-10	
Refusal of judgment not to avoid sale,	110	
Sale not to create in purchaser any further estate than warranted by mortgage,	110	
Principal of, may be paid before due,	111-12	
To be so drawn that annual quotas shall be payable on October 15, yearly,	114, 208	
For loans by the trustees of the loan office to be recorded,	200	
Payments to be endorsed upon, ...	200	
MOUNDS.		
May be erected to drain low grounds and meadows,	37	
MULATTOES. See Negroes.		

N.

NATIVES. See Indians.

NATURALIZATION.

Of certain aliens, 58-9, 149-50, 221, 284-85, 329-30	
Rights of natural born citizens conferred upon them,	58-9
Of aliens conscientiously opposed to taking oaths, to be by affirmation of allegiance,	393
Names of persons so naturalized to be recorded and sent to commissioners of trade and plantations, 393	

NAVIGATION.

Not to be impeded by the erection of bridges,	36
Exceptions,	36

NAVIGATION.—Continued.		Page.
Act not to be construed to forbid the erection of dams, mounds and tide-banks for draining and improving meadows and low grounds, 37		
NEGROES.		
Duty on imported,	52-3, 123	
Masters of vessels and others who import, to make entry thereof and give true account to collector,	53	
Collector to make entry and grant permit to land,	53	
Duty to be paid immediately on landing them,	53	
If not paid security to be given,	53	
Fees on security being given,	53	
Imported contrary to act to be forfeited,	53	
One-half of net value to be paid to governor; the other to the collector or prosecutor,	53	
Collector to have authority to search vessels and houses,	54	
In case of resistance officers to assist collector under penalty,	54	
Collector and officers to have powers of collectors of customs in Great Britain,	54	
Coasting vessels to comply with act,	54	
Persons subjected to duty to apply to collector without notice from him,	54	
Master of vessel remaining twenty-four hours to give security to collector that he will not land, in violation of act,	54	
If, exported within six months, three-fourths of duty to be abated,	55	
On payment of remaining one-fourth, security to be delivered up,	55	
Fees of collector on abatement, ...	55	
Such, to be bona fide shipped out of province,	55	
Duty not to be paid on negroes brought in for service by new settler in province,	55	
Security to be given to collector for payment of duty in case, are sold within sixteen months,	55	
Charles Read, appointed collector, ..	55	

NEGROES.—Continued.	Page.
Penalty for knowingly harboring other people's slaves without masters' consent,	64
One-half of fines and forfeitures collected under act to go towards paying for negroes executed for capital offenses, other half to be paid to prosecutor,	64
Recovery of fines and penalties,	64
Duty to be paid on, imported for sale,	123
All persons bringing, into province to enter and render collector of duty a true account thereof upon oath or affirmation,	123-24
Account to be recorded by collector, ..	124
Collector to grant permit to land, ..	124
Fee for permit,	124
Penalty for refusal or neglect to make entry,	124
Penalty, how recoverable,	124
Duty to be paid or secured before, are landed,	124
Fee for entering security,	124
Landed without entry or permit, or payment or security of duty, to be forfeited,	124
One moiety of value less charges to be paid to the governor; the other moiety to the collector or informer,	125
Powers of collector,	125
Public officers to aid collector on seizing, under penalty,	125
Coastwise vessels subject to act,	125
Duty to be paid to collector without request from him,	125-26
Vessels remaining over twenty-four hours without entry to give account of, on board to collector and give security not to land the same, ..	126
If negro dies or is imported within six months three-fourths of duty to be repaid,	126
Fees of collector in such case,	126
Departure must be bona fide,	126
Duty not to be paid on, imported by settlers for their own service,	126

NEGROES.—Continued.	Page.
Security to be given for payment of duty in case such are sold within sixteen months,	126-27
Constables to return to quarter-sessions lists of, brought into their townships,	127
Charles Read of Philadelphia appointed collector of duty and receiver of fines and penalties arising under act,	127
Accounts to be kept by collector, ..	127
Accounts to be submitted to provincial treasurer and laid before assembly,	127
Collector to pay sums of money received under act to provincial treasurer,	127
Commission of collector and charges incurred to be deducted,	127
Collector to be sworn before justice of the peace,	128
To give bond to provincial treasurer, ..	128
In case of death or removal of collector provincial treasurer to appoint one in his place until assembly shall appoint successor,	128
Act to be given in evidence on the plea of the general issue,	128
Treble costs given defendant if plaintiff or prosecutor become nonsuit, forbear prosecution or suffer discontinuance,	128
Punishment for, firing woods, marshes, &c., without direction of master unless master will pay damages and costs,	282
NEWTOWN. See Bucks County; Court-house; Prison.	
NEXT FRIEND.	
Infant legatee may recover legacy by,	389
NOLLE PROSEQUI.	
Proceedings under act for raising county rates and levies, not to be stayed by,	24
Not to prevent recovery of penalty for illegally exercising office of sheriff or under-sheriff,	214

NON OBSTANTE CLAUSE.

Page.

Use of, 8, 10, 24, 36-7, 39, 40, 43, 58-9,
68, 69, 70, 71, 72, 92, 109, 120, 122, 142,
145, 154, 169, 176, 177, 212, 213, 218,
218, 230, 232, 144, 248, 256, 260, 262,
268, 272, 276, 282, 290, 295, 298, 315,
331, 338, 344, 348, 350, 352, 375, 389,
390, 401, 405

NONSUIT.

In actions arising under act for lay-
ing a duty on negroes to render
plaintiff or prosecutor liable to
treble costs, 128
In suits and prosecutions for acts
done under internal revenue act,
to render plaintiff or prosecutor
liable for treble costs, 162
In suits for official acts done under
act for relief of insolvent debtors
to render plaintiff liable to treble
costs, 175
In suits of prosecutions for acts
done under act laying an excise
on wine, &c., to entitle defendant
to recover treble costs, ..247, 317, 404
If plaintiff in suits before justice of
the peace become, defendant to be
awarded costs,293, 341, 374
If persons replevying goods dis-
trained for proprietaries' quit-
rents become, goods to be re-
stored or arrears of rent and costs
paid,324-25

NUISANCE.

Hay and fagots kept contrary to law
in the city of Philadelphia to be
removed as a, 217

O.

OATHS.

Form of, of inspector of flour, 7
To be taken by commissioners and
assessors, 12
Form of, 12
Justices of the peace to administer, 12
Penalty for refusal to administer, .. 12
To be written, signed and certified
by justices and filed with return of
election, 12

OATHS.—Continued.

Page.

Of mortgagor to loan office to be en-
dorsed on mortgage, 42
Form of, 42
Of signers of bills of credit, 46, 100-1,
205, 347, 412
Form of, 46
Of trustees of the loan office, 48, 105,
201, 207, 350, 408
Form of, 48
Of clerk of trustees of loan of-
fice,50, 108, 357-58
Form of, 50-1
Form of, of collector of duty on
negroes, 56
Form of, of inspector of beef and
pork, 76
To be taken before a justice of the
peace, 76
Form of, of inspector of elec-
tion,79, 334, 379
To be administered by judge, 79
Form of, of electors, 79
Votes of those who refuse to take,
to be rejected,79, 335, 380
Votes of those who take, to be put
in ballot box,79, 335, 380
No such vote to be suppressed, 79
Form of, of attorney at law, 96
Of borrowers of bills of credit, ... 105
Form of, of insolvent petitioning for
release, 173
False taking of, punishable as per-
jury, 176
Of claimant of bounty on hemp, .. 185
Of ropemaker, 187
Of inspector of hemp, 188
Of inspectors of bread and flour, .. 254
Of deputy inspectors of bread and
flour, 254
Of collector of duty on persons con-
victed of heinous crimes to be ad-
ministered by justice of the peace, 320
Successive collectors to take, 321
Of intending voters,334-35, 379
Taken without kissing the book or
as administered in Scotland, to be
valid, 338
False swearing in this manner to be
punished for perjury, 338

	Page.
OATH OF ABJURATION.	
To be taken by all aliens coming into the province,	135, 138
OATH OF ALLEGIANCE.	
To be taken by all aliens coming into the province,	135, 138
OLD PERSONS.	
Imported, to be examined as to the likelihood of their becoming a public charge,	139
If such found likely, masters, owners or importers of such persons to be proceeded against,	139
Order of justices may be traversed by persons aggrieved on giving recognizance,	139
ORDINARIES. See Public Houses.	
OVERSEERS OF THE POOR.	
One-half of fines paid prosecutor for offenses against the act regulating the exportation of bread and flour to be paid by him to the, ..8,	256
To bind out negroes set free under the age of twenty-one and children of free negroes,	62
To receive surplus proceeds of sale of estrays for use of township, ..	118
To assess and collect charges of erection and maintenance of pound,	119
To collect same by distress if owner refuses to pay,	119
To give persons removing a certificate of their last legal settlement,	270
Of place of last settlement to provide for maintenance or funeral expenses of persons become a public charge or dying before gaining a new settlement,	271
On refusal to do so, expenses to be levied by distress,	271
To lay rate for relief of poor with approval of magistrates,	272
To deliver duplicate of rate to justice who allows same,	273
To deliver lists of poor persons to successors with notices and certificates received under act, ...	273

	Page.
OVERSEERS OF THE POOR.—Continued.	
Reasonable allowance to be made them for making lists, &c.,	273
Successors to record notices and certificates,	273
To deliver record to successors, ..	273
Accounts of, to be settled yearly,	274
No accounts to be allowed except such as seem reasonable,	274
Retiring, to render account of moneys received and pay over sums in their hands to their successors,	275
On refusal or neglect to do so, to be imprisoned until account is rendered and moneys paid over,	275
On refusal or neglect to collect and pay over moneys which they are empowered to collect, to be imprisoned until moneys are paid,	275-76
In case of death of, successor to be appointed by magistrate,	276
One-half of penalties accruing under act for regulating retailers of liquors near the iron-works to go to, for the use of the poor,	303
To preside at nomination of inspectors of election, in case of the absence, neglect or refusal of constable,	332, 333, 334, 335, 377, 380
Penalty for neglect or misbehavior,	336, 380
Penalty, how recoverable,	336, 381
To receive penalty for receiving or harboring sick persons ordered to be sent to Province Island,	387
OYER AND TERMINER. See Court of Oyer and Terminer.	

P.

PARDON.

Not to prevent recovery of penalty for illegally exercising office of sheriff or under-sheriff,	214
---	-----

PASSENGERS. See Servants.**PASTOR.**

Not to join negro in marriage with white person under penalty,	62
--	----

	Page.
PAUPER. See Impotent Persons; Poor.	
On information given, impotent and poor persons to be examined as to the likelihood of their becoming a public charge,	139, 167
If such appears likely, importer or owner to be compelled to give security to transport such person out of the province or to indemnify province against charge,	167
Person aggrieved may appeal from order of justices to quarter-sessions upon giving recognizance, 167-58	
Judgment of quarter-sessions to be final,	168
Importers to give to collector of duty a just account of all passengers imported into the province,	168
Mayor of Philadelphia and justices of the peace of the counties to be notified,	168
Mayor or justices to examine importer as to the character of the passengers and grant permit to land such as are found fit,	168
Fees for granting permit,	169
Penalty for landing, without permit, 169	
Application of penalty,	169
Penalty, how recoverable,	169
Importers to make entry without request,	170
Found in province within one year after their arrival to be arrested and examined before magistrates as to the manner of their importation,	361
If magistrate finds that they were shipped for Pennsylvania, importer to be summoned and examined, 361	
If it appears that they were illegally landed importer to be bound over to quarter-sessions,	362
On conviction importer to forfeit twenty pounds for each person illegally landed,	362-63
Aged and impotent persons brought into province to be examined as to the likelihood of their becoming a public charge,	363
If such appears likely person importing to be compelled to give security for their removal or to otherwise indemnify the public, ..	364

PAUPER.—Continued.

	Page.
Appeal to be from order of justices to quarter-sessions,	364
Recognizance to be given by appellant,	364
Judgment of quarter-sessions to be final,	364
Masters of vessels, merchants and others, bringing passengers into the province to enter account thereof with collector of tariff, ...	364
Collector to transmit account to magistrates,	364
Magistrates to examine importer and grant certificate to land passengers,	365
Fees for examination and certificate, 365	
Penalty for landing passengers without making entry and obtaining certificate,	366

PEDDLERS.

Not to sell goods without license, ..	141
License to be granted by governor on recommendation of justices of county court,	142
Licensee to file bond for good behavior,	142
Fee for granting license,	142
Penalty for peddling without license, 142	
Penalty, how recoverable,	142
Application of penalty,	142
Penalty for refusal to show license on demand by proper officer,	142
On non-payment of penalty, to be treated as common vagrants,	142
Act not to apply to sales at fairs or to peddling produce or manufactures of the province,	143
In case of dispute, to declare on oath before a justice of the peace or other magistrate whether goods hawked are the produce or manufacture of the province,	143

PERJURY.

Insolvent taking false oath or affirmation to be guilty of,	176
Conviction thereof to nullify discharge,	176
False oath taken without kissing the book, or taken as administered in Scotland, to be deemed and punished as,	338, 351

	Page.		Page
PERMIT TO SELL LIQUORS. See License.		PHILADELPHIA, CITY OF.—Continued.	
PEST-HOUSE. See Hospital; Province Island; Quarantine.		Aldermen of the, not to certify record to the supreme court,	88
PETIT LARCENY. See Larceny.		Aldermen of the, on affirmation or reversal of judgment to proceed to execution or otherwise,	88
PETTY CHAPMEN. See Hawkers; Peddlers.		Supreme Court to be held in the, ..	88
PHILADELPHIA, CITY OF. See Recorder of Philadelphia.		Loan of provincial bills of credit to the, for erecting an almshouse authorized,	106
Keeping of gunpowder in, regulated,	32	Aldermen of the, with mayor and recorder to have jurisdiction of complaints in regard to vagrant and impotent persons likely to become a public charge,	138-39
Powder-house to be erected,	32	Goods not to be sold at auction or vendue in, without license,	144
All gunpowder brought into, to be stored in powder-house,	32	Vendue-master to be licensed,	144
Keeper of powder-house to attend and receive and deliver powder, ..	32	Penalty for selling at auction without license to be for use of corporation of city,	144
Receipts to be given for powder stored,	33	Mayor, recorder and alderman to grant license to sell liquors,	158
Contents of receipt,	33	To fix rate in lieu of internal revenue tax,	158
No one within, or two miles thereof to keep more than twelve pounds of gunpowder,	33	Penalty for selling without license, ..	160
Penalty for violation of act,	33	Mayor, recorder and aldermen to hear complaints of offenses against act imposing an internal revenue tax upon liquors,	161
Masters and merchants importing powder to deliver it to keeper of powder-house on notice,	33	Appeal to lie to quarter-sessions, ..	161
Penalty for failure to deliver,	33	Mayor, recorder and aldermen enjoined to proceed upon complaint of offense against act imposing an internal revenue tax upon liquors,	161-62
Fees of keeper of powder-house,	33	To issue warrant to levy forfeiture upon goods of offender,	162
Re-delivery of powder for exportation,	34	To sell goods if not redeemed within five days,	162
Penalty for neglect of keeper of powder-house to attend thereat or for his exacting illegal fees,	34	If sued or prosecuted for things done under act, to give act and special matter in evidence under the plea of the general issue,	162
Penalties, how recoverable,	34	Mayor, recorder and aldermen to arrest and examine convicts, &c., found within province within twelve months after their arrival as to the time and manner of their importation and compel them to pay duty,	165-66
Application of penalty,	34		
Repeal of clause of former act,	34-5		
Two aldermen of, with mayor, to appoint successor in case of death, disability or removal of inspector of beef and pork,	76		
Six inspectors of election to be chosen for,	78		
Ferry from Philadelphia to William Cooper's vested in the mayor and commonalty of, for seven years, ..	81		
Ferry from Philadelphia to Gloucester vested in the justices of the county of, for seven years,	82		
Aldermen of the, not to be deprived of their powers and privileges, ..	87		

	Page.
PHILADELPHIA, CITY OF.—Continued.	
To examine importers of such persons and bind them over to quarter-sessions,	166
To examine poor and impotent persons as to the likelihood of their becoming a public charge,	167
To compel owner or importer of such persons to give security to indemnify province against charge,	167
Appeal to be from decision of mayor, &c., to quarter-sessions,	167
Collector of duty to notify mayor of passengers to be landed at,	168
Mayor to examine importer and grant permit to land passengers found fit,	168
Fee for granting permit,	169
Sales or assignments of servants in, to be made before mayor or recorder under penalty,	170
Register of such servants to be kept,	171
Outgoing mayor to deliver register to successor,	171
All hemp brought into, to be brought directly to the public beam at the workhouse,	185
How coopers' shops and bake-houses shall be built in,	215-16
Penalty for carrying on the trade of cooper and baker in houses otherwise constructed,	216
Penalty for second offense,	216
Penalty for third offense,	216
Penalties, how recoverable,	216
Application of penalties,	216
Appeal to lie from judgment of magistrates imposing penalty to common pleas,	216
Judgment of common pleas to be final,	216
Hay not to be stacked within one hundred feet of any building except in a stable,	216
Penalty for violation of act,	216
More than two hundred fagots not to be kept within one hundred feet of any building,	216
Penalty for violation of act,	217
Hay and fagots kept contrary to act to be removed as a nuisance,	217

	Page.
PHILADELPHIA, CITY OF.—Continued.	
Any two aldermen to hear and determine forfeitures and offenses under act for reviving an excise on wine, &c.,	245-46
Appeal to be to quarter-sessions from judgment of aldermen,	246
Judgment of quarter-sessions to be final,	246
Aldermen who sat on first hearing not to sit on appeal,	246
On complaint, aldermen to summon and try party accused and give sentence,	246
To levy fines and forfeitures by distress or imprisonment,	246
To sell distress if not redeemed within five days,	246
If sued or prosecuted for anything done in pursuance of act, to give act and the special matter in evidence under the general issue, ..	246-47
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover treble costs,	247
No one to gain a legal settlement in, except mariners and healthy persons coming direct from Europe unless notice of arrival be given within five days,	266-67
No hired servant or apprentice to gain a legal settlement unless such notice be given within ten days after hiring or binding,	266-67
Housekeepers receiving persons not legally settled in the province to give notice thereof to the overseers of the poor within three days,	268
Mayor or recorder and one other magistrate to hear complaints of neglect to give notice,	268
Mayor or recorder with any two aldermen to approve rate for relief of the poor,	272
Mayor or recorder with any two aldermen to examine and settle accounts of overseers of the poor, ..	274

PHILADELPHIA, CITY OF.—Continued.

	Page.
Mayor, recorder and any two aldermen to select custodian of almshouse and regulate the receiving and maintaining of poor persons therein,	274
Retiring overseers to account to magistrates for moneys received and pay over sums remaining in their hands to their successors, ..	275
Mayor and recorder with two aldermen to commit to jail overseer refusing to collect and pay over moneys to successors,	275
Mayor or recorder with two aldermen to appoint successor to deceased overseer,	276
Mayor or recorder with one alderman to levy fines and forfeitures imposed by act,	276
Appeal to be from their decision to the quarter-sessions,	277
Judgment of quarter-sessions to be final,	277
Mayor or recorder and one other magistrate to issue warrant to collect arrearages of internal revenue tax from collector neglecting or refusing to collect and pay over same,	213
Two or more aldermen to hear and determine offenses against act laying an excise on wine, &c., ...	316
Appeal to lie from decision of alderman to quarter-sessions,	316
Judgment of quarter-sessions to be final,	316
Alderman who heard case not to sit on appeal,	316-17
Aldermen authorized and required on complaint of offense against act to summon party accused and proceed to judgment and award warrants to levy fines by distress, ..	317
If no sufficient distress found offender to be imprisoned until satisfaction is made,	317
If prosecuted or sued for anything done in pursuance of act, alderman to give the act and special matter in evidence under the general issue,	317

PHILADELPHIA, CITY OF.—Continued.

	Page.
If plaintiff become nonsuit, suffer discontinuance or verdict pass against him, defendant to recover treble costs,	317
Mayor, recorder and aldermen of, to appoint collector of duty on persons convicted of heinous crimes until assembly appoints another, ..	321
Mode of election of inspectors of election in,	334
Mayor and recorder, or mayor or recorder and one alderman to examine importer of passengers landed if it appears that they were shipped for,	362
If it appears that they were illegally landed, to bind importer over to quarter-sessions,	362
To examine paupers, lunatics, &c., as to the likelihood of their becoming a public charge,	363
If such appears likely, to order importer to give security to remove them or to otherwise indemnify the public,	363-64
Appeal to be from order to quarter-sessions, on giving recognizance, ..	364
Judgment of quarter-sessions to be final,	364
Mayor, &c., to examine importer of passengers, and grant permit to land fit persons,	365
Fee for granting permit,	365
All sales and assignments of servants in the, to be made before the mayor or recorder,	369
Register thereof to be kept and delivered to successor,	370, 378
Any two aldermen to hear and determine forfeitures and offenses against act for laying an excise on wine, &c.,	403
Appeal to be to quarter-sessions from decision of aldermen,	403
Judgment of quarter-sessions to be final,	403
Alderman who heard cause not to sit on appeal,	403
Aldermen required to proceed upon complaint of offense against act, give judgment, award distress, and imprison offender, if no sufficient distress found,	403-04

	Page.		Page.
PHILADELPHIA, CITY OF.—Continued.		PILLORY.—Continued.	
If aldermen be sued or prosecuted for anything done in pursuance of act, to give the act and special matter in evidence, under the general issue,	404	Punishment for forging or counterfeiting bills of credit, being accessory thereto or uttering forged or counterfeited bills,	112
If plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him alderman to recover treble costs,	404	Punishment for raising bills of credit,	358
PHILADELPHIA CITY AND COUNTY.		PLAINT. See Action of Debt.	
Time and place of holding quarter-sessions for,	85	Fines and forfeitures to be recovered by,8, 34, 53, 64, 77	
Time and place of holding common pleas for,	92	Value of negroes illegally imported to be recovered by,	125
Collector of internal revenue tax on liquors appointed for,	398-99	Penalties under act establishing a ferry at Kirkbride's landing place to be recovered by,	130
Bond of collector,	400	Forfeiture for importing aliens without payment of duty recovered by,	138
PHILADELPHIA COUNTY.		Penalty for hawking or peddling without license to be recovered by,	142
Salary of clerk of commissioners, ..	23	Penalty for illegal publication of banns or celebration of marriage to be recovered by,	154
Bond of treasurer,	24	Penalty for illegally landing passengers to be recovered by,169, 366	
Eight inspectors of election to be chosen for,	78	Penalty for illegally exercising office of sheriff or under-sheriff to be recovered by,	214
Collector of internal revenue tax appointed for,	242	Penalty for sale of liquors by collector of internal revenue or his deputy to be recovered by,248, 318	
Bond of collector,	243	Penalties for exportation of bread and flour not merchantable to be recovered by,	255
Provincial brand-mark for,	252	Penalty for sale of flour by inspector or deputies for Philadelphia to be recovered by,	256
Inspector of bread and flour for, ..	252	Penalty for neglect of duty by collector of tariff on convicts, or his deputies to be recovered by bill, or information,	368
Inspector or deputies not to deal in flour during continuance of act, ..	256		
Penalty for dealing in flour contrary to act,	256	PLAINTIFF.	
Penalty, how recoverable,	256	In actions under act laying a duty on negroes liable to treble costs if he becomes nonsuit, forbears prosecution or suffers discontinuance,	128
Application of penalty,	256		
Office to be forfeited on conviction of offense,	256	PLATE.	
Justices to appoint another to act until assembly appoints successor, ..	256	Bills of credit to be loaned on security of,	110
Offenses against act to more effectually prevent the erecting of weirs, dams, &c., within the river Schuylkill to be laid and prosecuted in,	265		
PICKLE.			
Beef and pork designed for exportation to be packed with,	74		
PILLORY.			
Punishment for third offense of counterfeiting provincial brand-mark or illegally using brand, 9, 76, 255			

PLEADING.	Page.	POOR.—Continued.	Page.
In suits and prosecutions under act for raising county rates and levies, defendant may plead the general issue and give special matter in evidence,	23	If on complaint it be adjudged within twelve months after notice that such persons are liable to become a public charge and they neglect to give security therefor, they shall be removed to their place of last settlement,	267-68
In suits or prosecutions under act for laying a duty on negroes, general issue may be pleaded, and the act and special matter may be given in evidence,	56	Housekeepers receiving persons not settled in the province to give notice thereof to the overseers of the,	268
In suits or prosecutions for things done in pursuance of act laying an excise on wine, &c., defendant to give the act and special matter in evidence under the general issue,	317, 404	Penalty for neglect,	268
		Penalty, how recoverable,	268
		Application of penalty,	268
		For want of a sufficient distress, offender to be committed to work-house for ten days,	268-69
		In case person so received become unable to assist themselves, housekeeper to maintain them,	269
		In case of refusal overseers of the, to assess upon them sum necessary for maintenance of such persons,	269
		On refusal to pay, assessment to be levied by distress,	269
		For want of sufficient distress offender to be committed to prison,	269
		Persons removing from one place to another to be received on presentation of certificate of previous settlement,	270
		If such persons become a public charge, to be removed to place from which certificate was brought,	270
		If persons become a public charge before gaining a legal settlement, overseers of the, of the place of last settlement to provide for them, ..	271
		On refusal to do so any two justices of the peace of the place of last settlement to levy sum needed for maintenance, &c., by distress and sale of overseers' goods,	271
		Overseers of the, to lay rate for relief of the,	272
		Duplicate of rate to be delivered to justice who allows the same,	273
POOR.			
One-half of all fines arising under the act for regulating the exportation of bread and flour to be for the use of the,	8, 256		
Fines to be received by the prosecutor and paid by him to the overseers of the,	8		
One-half of forfeiture for selling liquor without license to be for the use of the,	161		
One-half the value of forfeited hemp to be for the use of the,	187		
One-half the penalty for working up unsound hemp to be for the use of the,	188		
Penalty for refusing to assist in removing divers, dams, &c., to be for the use of the,	265		
No one coming into the province except mariners and healthy persons coming directly from Europe to gain a settlement unless notice of abode and family be given to overseers of the, within five days after arrival,	266-67		
Hired servant or apprentice not to gain settlement unless notice be given within ten days after hiring or binding,	266-67		

POOR.—Continued.

Page.

Lists of, to be delivered to succeeding overseers with certificates and notices given as required by act, 273	
Reasonable fees to be allowed persons for making duplicates, lists, &c.,	273
Notices and certificates to be recorded by succeeding overseers, ..	273
Record to be delivered to successors, 273	
Accounts of overseers of the, to be settled yearly by magistrates, ..	274
Magistrates to have power to allow such accounts only as appear just and reasonable,	274
Mayor and recorder of Philadelphia with any two aldermen to appoint custodian of almshouse and regulate the receiving and keeping of, therein,	274
Overseers of the, to render accounts and pay over moneys remaining in their hands, to magistrates on going out of office,	275
On refusal or neglect to do so, to be imprisoned until accounts are rendered and moneys paid over,	275
On refusal or neglect to collect and pay over moneys which they are enabled to collect by warrant retiring overseers to be imprisoned until they pay over such moneys, 275-76	
Penalties imposed by act, entitled "A supplement to the several acts of assembly of this province for the relief of the," to be levied by distress,	276
Appeal to be from decisions of justices under act to quarter-sessions,	277
Judgment of quarter-sessions to be final,	277
One-half of penalties accruing under act for regulating retailers of liquors near the iron-works to be for the use of the,	303
Penalty for receiving or harboring sick persons to be for relief of, 307	

POOR TAXES.

Page.

Overseers of the poor to lay rate for the relief of the poor with the approval of two magistrates,	272
Duplicate of rate to be delivered to magistrates,	273

PORK.

Designed for exportation, to be sound meat and well packed with salt and pickle,	74
Not more than two heads of, to be packed in a barrel,	74
No, to be exported before inspection, 74	
If found merchantable, cask to be branded with provincial brand-mark,	74
In case of dispute application to be made to a magistrate,	74
Magistrate to appoint inquest of two indifferent persons,	74
Inquest to view, and report,	74
If, found unmerchantable, magistrate to order it not to be exported under pain of forfeiture and order owners to pay inspector five shillings per cask with costs,	75
If found merchantable, inspector to pay costs,	75
Fees of inspector,	75
Inspector and deputies empowered to enter any vessel, house, &c., and search for beef and, designed for exportation,	75
Penalty for refusing to permit or obstructing search,	75
Penalty for shipping casks of, not branded,	75
Nathaniel Griffiths appointed inspector of,	75
In case of death, disability or neglect of duty, mayor and two aldermen of Philadelphia to appoint successor who shall hold office until the assembly appoints another,	76
Inspector to take oath before entering on duties of office,	76
To appoint deputies,	76
Deputies to have powers of inspector of,	76

PORK.—Continued.	Page.	POUNDS.—Continued.	Page.
Penalty for counterfeiting or illegally using provincial brand-mark, ...	76	Strays impounded to be delivered to owner on payment of one shilling costs, damages paid to taker up, daily charges allowed by act, and six pence to clerk of court,	117-18
Penalty for second offense,	76	If no owner appears within three months, poundkeeper to sell strays at public sale on warrant of justice of the peace,	118
Penalty for third offense,	76	Ten days' notice of sale to be given,	118
Disposition of fines and forfeitures, ..	77	Poundkeeper to retain specified part of proceeds of sale,	118
Recovery of fines and forfeitures, ..	77	Fees of poundkeeper for keeping strays,	118
		Fees of poundkeeper for making sale,	118
		Account of proceedings to be kept and returned with surplus of sale to justices at next county court,	118
		Surplus to be paid to overseers of the poor,	118
		If right owner of strays appears within nine months after sale, justices to order surplus to be repaid to him,	118-19
		Penalty for illegal taking strays from,	119
		Application of penalty,	119
		Overseers of poor to assess townships for expense of building and maintaining, and to collect same,	119
		Freeholders at town meetings to direct application of assessment levied,	119
		Assessment to be collected, on refusal to pay it, by warrant of distress issued by a justice of the peace,	119
		POWDER. See Gunpowder; Philadelphia.	
		POWDER-HOUSE. See Gunpowder; Philadelphia.	
		PRACTICE.	
		Quarter-sessions to issue writs into any county,	87
		To issue subpoenas into any county,	87
		Debts over forty shillings and under five pounds to be cognizable before any justice of the peace,	291

PORK.—Continued.

Penalty for counterfeiting or illegally using provincial brand-mark, ...	76
Penalty for second offense,	76
Penalty for third offense,	76
Disposition of fines and forfeitures, ..	77
Recovery of fines and forfeitures, ..	77

POUNDKEEPER. See Pounds.

POUNDS.

Keeper of, to be elected annually,	116
Election to be held on May 20,	116
Poundkeeper to agree with some person for construction of,	116
To be erected where majority of those present at election appoint,	116
Memorandum of appointment to be returned by constable to next county court,	116
Clerk to enter memorandum among minutes of court,	116
Notice of names of keepers and of location of, to be affixed on door of court-house,	116-17
Notice of taking up of stray animals to be given to owner, within twenty-four hours,	117
If owner refuse to make satisfaction, or if owner found, strays to be sent to poundkeeper,	117
Poundkeeper to receive strays and feed them duly,	117
Poundkeeper to appoint inquest to assess damages and pay them to person grieved,	117
Poundkeeper to keep record of the kind, color and marks of strays delivered to him, with the day of receiving them and from whom he received them,	117
Account thereof to be sent to clerk of county court within ten days,	117
Notice to be affixed in public view in office of clerk,	117
Poundkeeper to affix notice at court-house of kind and marks of strays impounded,	117

POUNDS.—Continued.

Strays impounded to be delivered to owner on payment of one shilling costs, damages paid to taker up, daily charges allowed by act, and six pence to clerk of court,	117-18
If no owner appears within three months, poundkeeper to sell strays at public sale on warrant of justice of the peace,	118
Ten days' notice of sale to be given,	118
Poundkeeper to retain specified part of proceeds of sale,	118
Fees of poundkeeper for keeping strays,	118
Fees of poundkeeper for making sale,	118
Account of proceedings to be kept and returned with surplus of sale to justices at next county court,	118
Surplus to be paid to overseers of the poor,	118
If right owner of strays appears within nine months after sale, justices to order surplus to be repaid to him,	118-19
Penalty for illegal taking strays from,	119
Application of penalty,	119
Overseers of poor to assess townships for expense of building and maintaining, and to collect same,	119
Freeholders at town meetings to direct application of assessment levied,	119
Assessment to be collected, on refusal to pay it, by warrant of distress issued by a justice of the peace,	119

POWDER. See Gunpowder; Philadelphia.

POWDER-HOUSE. See Gunpowder; Philadelphia.

PRACTICE.

Quarter-sessions to issue writs into any county,	87
To issue subpoenas into any county,	87
Debts over forty shillings and under five pounds to be cognizable before any justice of the peace,	291

PRACTICE.—Continued.

Page.

Justice to issue warrant to constable in nature of summons or capias to bring defendant before him,	291
Justice to hear and determine cause by himself or by auditors and referees,	292
To give judgment therein with costs as in case of debts under forty shillings,	292
Process against freeholder to be by summons only,	292
Service of summons,	292
Alias summons to issue, in case defendant does not appear,	292
If defendant does not appear to alias summons justice to hear and decide cause in his absence,	292
Justice to issue execution on judgment,	293
Execution to be by distress of defendant's goods,	293
If no sufficient distress found defendant to be imprisoned until debt and costs are paid,	293
Stay of execution against freeholder,	293
Execution against nonfreeholder to be stayed on entering special bail,	293
If plaintiff become nonsuit or judgment pass against him, defendant to have costs,	293
Act not to prevent release of insolvent debtors,	293-94
Appeal to be from judgment of justices to the common pleas exempt-cases heard by auditors or referees,	294
Appellant to give recognizance to prosecute appeal,	294
Justices to keep record of causes heard before them,	294
On appeal, to send transcript of record to the prothonotary of the common pleas,	294
Fee for delivering transcript,	294
Appellant to cause suit to be entered, and proceed as case may require,	294
On default judgment to be affirmed and execution issued,	294
If defendant appear or give bail plaintiff below to file declaration and suit to proceed on trial and judgment as in other cases,	295

PRACTICE.—Continued.

Page.

If parties neglect to plead, judgment by default to be entered against them,	295
In suits appealed only two-thirds regular costs to be taxed,	295
Justice who heard case not to sit in appeal,	295
In suits within provisions of act commenced and prosecuted otherwise than as directed by act, plaintiff not to recover any costs,	295
Exception,	295
Act not to extend to certain actions,	296
Duration of act limited,	296

PRISON.

New, to be built at Newtown in Bucks county,	9
Trustees appointed to purchase site and erect building,	9
Commissioners and assessors to levy tax to defray expense of purchase of site and erection of buildings, ..	10
To be erected in Lancaster county, ..	133
Tax to be levied to defray expense of erecting,	133-34
In Lancaster county, three hundred pounds in bills of credit loaned to build,	151
Said loan to be sunk by a tax levied upon the inhabitants of the county,	151-52

PRISONERS.

Extortion not to be practiced upon, ..	179
Expense of keeping to be fixed by standing order of court,	179-80
To be permitted to send for food and drink, &c.,	180
Fees of gaoler to be settled by order of court,	181
Tables thereof to be recorded,	181
Orders establishing fees may be amended by order of the supreme court,	181
Table of fees to be hung up in gaol, ..	181
Courts to inquire concerning compliance with table,	181
Gaoler, &c., not to sell to, other liquors than allowed by order of court on pain of removal,	182
Complaint to be heard and determined summarily,	182

	Page.		Page.
PRIVATE ACT.		PROSECUTION.	
For the naturalization of certain aliens,	221, 284-85	Forbearance of in cases arising under act for laying a duty on negroes to render prosecutor liable to treble costs,	128
For relief of Benjamin Mayne, ..	223-25	PROSECUTOR.	
To disable William Fishbourn from holding any office of trust or profit, &c.,	227	To receive all fines arising under the act for regulating the exportation of bread and flour not otherwise applied,	8
To better enable William Fishbourn to discharge a debt due from him to the trustees of the loan office, ..	262	To pay one-half thereof to the overseers of the poor,	8
Vesting certain lands in George McCall, his heirs and assigns,	289	To receive one-half of fines and forfeitures recovered under act for exportation of flour,	8
PRIVATE ROADS. See Highways.		To receive one-half of fines and forfeitures recovered under act for securing Philadelphia from damage by gunpowder,	34
PRIVY SEAL.		Of forgers or counterfeiters of bills of credit to be paid damages and costs,	45
Acts adjudged void, but not declared void after the, according to the charter deed and taken to be null and void,	260	To receive one-half of fines and forfeitures collected under act for laying a duty on negroes, ..	53, 125
PROCESS.		To receive one-half of fines, forfeitures and penalties arising under act for the better regulation of negroes,	64
Of quarter-sessions to be issued into any county,	87	To receive one-half of fines and forfeitures arising under act for regulating the sale of liquors near the iron-works,	67, 303
Errors in, to be examined and corrected by supreme court,	89	To receive one-half of fines and forfeitures accruing under act establishing certain ferries,	84
Of the supreme court to be issued in name of chief justice,	88	Of person guilty of forging or counterfeiting bills of credit to receive five pounds in case offender does not pay fines,	113
To levy fines and amercements taxed in the supreme court, to issue therefrom,	89	In suits arising under act for laying a duty on negroes liable to treble costs if he becomes nonsuit, forbears prosecution or suffers discontinuance,	128
PROPRIETARY.		To receive one-half of penalty for hawking or peddling without license,	142
Estate not to be liable for county rates and levies,	14	To receive one-half of penalty for setting up lottery,	144
Quit-rents to be payable in bills of credit,	323		
To collect arrears of quit-rents by distress,	324		
Distress to be sold if not replevied within five days,	324		
If person replevying discontinue his suit, become non-suit or verdict pass against him, goods replevied to be restored or rent in arrear and costs paid,	324-25		
If no sufficient distress found, to proceed by summons,	325		
Service of summons,	325		
Proceedings or summons regulated, ..	325		

	Page.
PROSECUTOR.—Continued.	
To receive one-half of penalty for illegally exercising office of sheriff or under-sheriff,	214
To receive one-half the penalty for sale of liquors by collector of internal revenue,	318-19
Reward of, under act authorizing new issue of bills of credit the same as prescribed by former acts,	414-15
PROTECTION OF LAW.	
Not to be admitted, 8, 34, 53, 77, 125 130, 154, 169, 255, 366	
PROTESTANTS. See Religious Societies.	
PROTHONOTARY OF SUPREME COURT.	
To be commissioned by the governor on nomination of the judges,	90
To keep his office in Philadelphia, ..	90
Penalty for misdemeanor in office, by the,	90
PROTHONOTARY OF COUNTY COURT.	
To file bond of hawkers and peddlers,	142
PROVINCE ISLAND.	
Sick and infectious passengers to be landed at, and kept there until restored to health,	367
One-half of penalty for neglect of duty by collector of tariff on convicts or his deputies, payable to the trustees of,	368
Confirmed to the trustees to whom it had been conveyed to hold till their successors be appointed, ..	383-84
May be leased for any term not exceeding seven years,	384
Tenants to keep buildings, &c., in repair,	384
Right to place sickly persons thereon reserved,	384
Site for a hospital reserved,	384
Lease already made to remain in force,	384
Trustees to account to provincial treasurer for sum received in account of the,	385

	Page.
PROVINCE ISLAND.—Continued.	
If trustees become delinquent, treasurer to proceed against them by action of debt,	385
Actions for rent of, in arrear to be prosecuted in names of trustees, ..	385
Lieutenant-governor, commander-in-chief, or any two justices of the peace to order sick and infectious persons to be transported to, until adjudged free from infectious disorders,	386
Nursing and maintenance of persons transported to, to be paid for by importer, master or owner,	386
Importer, &c., to be repaid out of passengers' effects,	386
On application of trustees, justices of the peace to send for importer, master or owner of vessel and compel him to give bond to provide food and necessaries for sick persons,	386
Master or importer refusing to give bond, to be committed to prison, ..	386
Trustees to keep record of names of all persons sent to, with names of vessel, master and merchant importing them,	387
No sick person recovered to be discharged without certificate from the trustees,	387
PROVINCIAL TREASURER.	
To pay over yearly quotas and sums received in bills of credit to trustees of the loan office,	40
Receipts to be given therefor by trustees,	40
Such receipts to be sufficient discharges,	40
To pay costs of printing bills of credit,	44
To inspect and adjust accounts of collector of duty on negroes,	56
To receive sums collected from duties on negroes,	56
To receive bond of collector of duty on negroes,	56
To appoint successor in case of death or removal of collector,	56
To pay value of negro executed to owner on order of justices,	60

	Page.
PROVINCIAL TREASURER.—Continued.	
To receive one-half of fines and penalties collected under act,	64
To take bond of trustees of loan office,	102
To receive one thousand pounds in bills of credit to pay sums due on orders of assembly,	114
To inspect and adjust accounts of collector of duty on negroes, ..	127
To receive sums collected by him, ..	127
In case of death or removal of collector, to appoint another until assembly appoints successor,	128
Duty collected for importation of aliens to be paid to,	140
On death or removal of collector provincial treasurer to appoint another until assembly appoints successor,	140
Bonds of licensed venders of liquor to be payable to,	158
List of licensed persons to be delivered to,	158
Accounts of collectors of internal revenue to be submitted to,	159
Sums collected by collectors to be paid to,	160
Bonds of collectors to be payable to, ..	160
Bond for good behavior of imported convict to be payable to,	164
Inspector of hemp to account with, ..	183
To take bond of trustees of loan office,	201, 207
To receive one-half of penalty for illegally exercising office of sheriff or under-sheriff,	214
To examine and adjust the accounts of the collectors of internal revenue tax,	243
Sums received by collectors on account of tax to be paid to provincial treasurer every three months, ..	243
Treasurer to pay thereout certain sums to the trustees of the loan office,	244
To be accountable for the residue to the assembly,	244
Compensation for duties imposed by act,	244
To appoint successor to collector refusing to act,	244

	Page.
PROVINCIAL TREASURER.—Continued.	
To receive one-half the penalty for sale of flour by inspector of bread and flour for Philadelphia or his deputy,	256
To settle accounts of collectors of internal revenue tax,	313
To receive sums collected by collectors of internal revenue tax,	313
To take bond of collectors of internal revenue tax on liquors,	314
To appoint another instead of collector who refuses to act, misbehaves or dies until assembly appoints successor,	314
One-half of penalty for sale of liquors by collector of internal revenue tax or his deputy to be paid to,	319
To appoint a person to act instead of collector of internal revenue who has forfeited his office until assembly appoints successor,	319
To deliver to collectors appointed by act of August 25, 1738, a list of all internal revenue taxes outstanding under former act,	319
Bond of the trustees of the loan office to be payable to,	350
Trustees of the Province Island to account to,	385
Treasurer to proceed against delinquents by actions of debt,	385
To settle accounts of collector of internal revenue tax on liquors, ..	399
Bond of collectors of internal revenue tax on liquors to be payable to,	400
To appoint another in place of collector who refuses to serve, misbehaves or dies,	401
To appoint another in place of collector forfeiting his office,	405
Appointed to receive internal revenue tax on liquors,	405
To give bond,	406
Assembly to appoint successor in case of death or removal of,	406
Commissions on tax collected,	406
To deliver to collector account of tax due under former acts yet outstanding,	406

PUBLIC HOUSES.

	Page.
Not to be kept within two miles of any furnace without permit from majority of owners,	65
Penalty for violation,	65
Penalty, how recoverable,	65
If no distress be found, offender to be imprisoned for twenty days, ..	65-6
No person to be licensed to keep, near the iron-works before giving recognizance for compliance with act,	66
No license to be granted for sale of liquors in any part of the province before license gives recognizance for observance of the excise act, ..	66
One-half of fines and penalties collected under this act to go to the governor, the other half to the prosecutor,	66-7
Act not to affect other license and excise acts, except as expressly altered or supplied,	67
Duration of act limited to two years and to the end of the next session of assembly,	67
Recognizance required of persons licensed to keep, to be taken by magistrate and returned into quarter-sessions,	72

PUBLIC OFFICERS.

For receiving and examining hemp and paying bounty on same,	31, 69
To assist collector of duty on negroes,	54, 125
Penalty for refusal or neglect, ..	54, 125
To take oath of owner of hemp before paying bounty,	70
Place of election of, in Lancaster county,	133
May sell goods taken in execution at public vendue, without license, ..	145
Not to practise extortion upon prisoners,	179
To permit prisoner to send for food and drink, &c.,	180
Violation of act to be punished by summary proceedings,	181-82
Orders therein to be enforced by attachment,	182

PUBLIC OFFICERS.—Continued.

	Page.
Sued or prosecuted for things done under act reviving an excise on wine, &c., to give the act and special matter in evidence under the general issue,	246-47
To recover treble costs if plaintiff or prosecutor become nonsuit, suffer discontinuance or verdict pass against him,	247

PUBLIC VENDUE. See Auctions.

Q.

QUARANTINE.

Vessels importing passengers to be inspected on information,	367
Sick or infectious passengers to be landed on Province Island, and kept there until restored to health, ..	367
Province Island appointed as place of,	384
Sick and infectious persons imported into province sent thither by order of justices of the peace to remain until recovered,	386
Food, nursing, &c., of such persons to be paid for by master, merchant or importer,	386
To be repaid to them out of effects of sick persons,	386
Masters, owners or importers to be compelled to give bond to secure providing of food, &c., for sick persons,	386
On refusal to give bond, master, &c., to be committed to prison,	386
Record of persons sent to the island to be kept, with names of vessel, or master or merchant importing them,	387
No one to be discharged from, without certificate of trustees,	387
Person ordered to Province Island not to be received or harbored, under penalty of ten pounds,	387
Persons receiving or harboring such, to be liable for expense of maintenance and burial,	387
Penalty to be paid to the overseers of the poor,	387

	Page.		Page.
QUARANTINE.—Continued.		RECORDER OF PHILADELPHIA. See	
To be recovered as debts under forty shillings,	387	Philadelphia.	
If offender unable to pay, to be committed to workhouse or prison for one month,	388	Not deprived of powers and privileges,	87
QUARTER-SESSIONS. See Court of Quarter-sessions.		Not to certify record to the supreme court,	88
QUIT-RENTS.		On affirmation of reversal of judgment, to proceed to execution or otherwise,	88
Of proprietaries to be paid in bills of credit,	323	REDEMPTIONERS.	
In arrears to be recovered by distress,	324	Persons importing, to pay duty of twenty shillings each,	136
Distress to be sold if not replevied within five days,	324	Entry thereof to be made,	136
If person replevying discontinue his suit, become nonsuit or verdict pass against him goods replevied to be restored or arrears of rent and costs paid,	324-25	Found in province within twelve months after arrival to be arrested and examined upon oath as to the manner of their importation,	137
If no sufficient distress be found, proprietaries to proceed by summons to collect rents,	325	If shipped for Pennsylvania, to be required to take oath and pay duty,	137-38
Service of summons,	325	Masters and merchants of vessels to be examined upon oath as to importation of such,	138
Proceedings,	325	If it appears that they were landed with intent to evade act, masters and merchants to be bound over to appear at next quarter-sessions, ..	138
Duration of act limited to ten years, 326		On conviction, masters and merchants to pay duty and forfeit twenty pounds for such, so imported,	138
		Penalty, how recoverable,	138
		Application of penalty,	138
		REFEREES.	
		Suit brought before justice of the peace may be heard by,	292
		Justice to enter judgment on report of,	292
		Judgment to be final,	293
		Justice of the peace to appoint, to hear cause,	340, 371
		RELEASE. See Mortgages.	
		RELIGIOUS SOCIETIES.	
		Title to lands conveyed to third persons in trust for use of, confirmed to the societies for whose use they were conveyed,	209

RELIGIOUS SOCIETIES.—Continued. Page.

- Of protestants authorized to purchase land for burying-grounds, erecting churches, houses of religious worship, schools and almshouses, 210
- Not authorized to purchase for any other uses, 210
- Act not to impeach right of title of any person to such lands if it be prosecuted within three years, 210

RENT. See Landlord and Tenant.

REPLEVIN.

- Act for the more easy and speedy recovery of small debts not to extend to, 296
- Actions of, not to be tried before justice of the peace, ... 344, 375

REPRESENTATIVES. See General Assembly.

REWARD.

- For taking up negroes found ten miles from home, 63

RIVERS.

- Navigable, not to be obstructed by bridges, 86
- Exceptions, 86-7

ROADS. See Highways.

RUM. See Liquors.

S.

SALARIES.

- Of inspector of flour, 6
- Payment of, 6
- Of trustees of loan office, 48, 102, 194, 202, 207, 308, 356, 411
- Payable in bills of credit, 48
- Of members of assembly, how to be paid, 233-34

SALT.

- Beef and pork designed for exportation to be packed with, 74

SATISFACTION. See Mortgages.

SCHOOLS.

- Religious societies may purchase land for, 210

SCHUYLKILL RIVER.

Page.

- Penalty for erecting and maintaining or assisting to erect and maintain weirs, dams, &c., in, 264
- Application of penalty, 264
- Weirs, dams, &c., erected in, may be destroyed by any one, 264
- Penalty for assaulting or obstructing person destroying weirs, dams, &c., 264
- Application of penalty, 264
- Offenses against act to be laid and prosecuted in either Philadelphia, Chester or Lancaster county, 265
- Justice of the peace may issue warrant to highway surveyors to summon adjacent inhabitants to remove weirs, dams, &c., 265
- Penalty for refusal to obey summons, 265
- Penalty, how recoverable, 265
- Application of penalty, 265

SCIRE FACIAS.

- To recover recognizances to be issued by justices of the peace, .. 86

SERVANTS. See Aliens; Tariff.

- Not to be landed without permit granted by justices, 169
- Fee for granting permit, 169
- Penalty for landing, without permit, 169
- Sales of assignments of, in Philadelphia to be made before mayor or recorder, 170, 369
- Penalty for violation, 170
- Register of sales and assignments to be kept, 171, 370
- Outgoing mayor to deliver register to successor, 171, 370
- Firing woods, marshes, &c., penalty for, without direction of master, unless master pay damages and costs, 232
- Imported, found in the province within twelve months after their arrival to be arrested and examined as to the means of their importation, 361-62
- If it appears that they were shipped for Pennsylvania importers to be examined, 362

	Page.
SERVANTS.—Continued.	
If it appears that they were illegally landed importer to be bound over to quarter-sessions,	362
If convicted, to pay twenty pounds for every, illegally landed,	362
Application of penalty,	363
Importer to give account of persons imported to collector within forty-eight hours after their arrival, ..	364
Collector to enter account and transmit it to magistrates,	364
Magistrates to examine importer and grant certificate to land fit persons,	365
Fees for granting certificate,	365
Penalty for landing persons imported without entry or permit, ..	366
Application of penalty,	366
Sick and infectious persons to be removed to the Province Island to remain until restored to health, ..	367
Purchaser of sick or infirm, to recover damages from seller,	368
SERVITUDE.	
For seven years, when to be, punishment for person unable to pay fine for forging, counterfeiting or raising bills of credit,	113, 359
Debts under forty shillings to be satisfied by, with consent of debtor,	213
SET-OFF.	
Mutual debts between debtor and creditor may be,	177
Mutual debts between decedent and other party may be,	177
May be given in evidence under the general issue if notice be given at the time of pleading,	177
SHERIFFS. See Under-sheriff.	
To be elected annually,	11
Manner of election,	11
Ballot for, to be distinct from those for other officers,	11
Return of election,	12
Sheriff to detain delinquent taxpayer arrested for non-payment of tax until payment be made,	80

	Page.
SHERIFFS.—Continued.	
To execute precept of commissioners to seize body and estate of delinquent collector,	20
To execute precept of commissioners to sell estate of delinquent,	20
To pay proceeds of sale to commissioners,	20
To execute deed for real estate sold by him,	20
To execute warrant of justices to seize body and estate of delinquent commissioner,	21-22
To execute precept of commissioners to seize body or estate of delinquent treasurer,	22
To execute precept of commissioners to seize body or estate of delinquent assessors,	22
To execute precept of commissioners to seize body or estate of delinquent clerk,	22
Summons to be directed to,	27
To assist collector of duty on negroes,	54, 125
Penalty for refusal or neglect, ...	54, 125
Punishment of, for refusal to execute or return execution issued by the court of common pleas,	94
To execute deed for land sold by predecessor under execution when ordered by court,	97
To assist deputy collector of duty on negroes,	125
Penalty for refusal or neglect,	125
Of Lancaster county to execute and return process directed to him by justices of Chester county,	134
May sell goods taken in execution at public vendue without license, ...	145
Not to practice extortion on prisoners or persons arrested,	179
To permit prisoner to send for food and drink, &c.,	180
Violation of act punished by summary proceedings,	181-82
Orders therein to be enforced by attachment,	182
Not to keep tavern or public house, ..	182
Not to sell liquors to prisoners above amount allowed by order of court under penalty of removal from office,	182

	Page.		Page.
SHERIFFS.—Continued.		SICK PERSONS. See Hospital; Province Island; Quarantine.	
Term of office of, limited,	183	SLANDER.	
Or under, not eligible for re-election within the next three years,	183	Act for the more easy and speedy recovery of small debts not to extend to actions on the case for, ..	296
Penalty for violation,	183	Action for, not to be tried before justice of the peace,	344, 375
Alternate not to serve as under-sheriff during term of sheriff's commission,	214	SLAVES. See Negroes.	
Election of, within three years of former term of three years null and void,	214	Punishment for firing woods, marshes, &c., without direction of master, unless master will pay damages and costs,	282
Penalty for exercising office of, contrary to act,	214	SPECIAL COURTS. See Court, Special.	
Penalty, how recoverable,	214	SPECIAL MATTER.	
Application of penalty,	214	May be given in evidence under the general issue in certain cases, ..23, 56	128, 162, 317, 404
Act of governor or lieutenant-governor not to prevent recovery of penalty,	214	SPIRITS. See Liquors.	
Required to assist collectors of internal revenue tax,	241	STANDING MUTE.	
Penalty for refusal,	241, 312, 398	To be legal ground of conviction of offense of counterfeiting or forging bills of credit,	358
Sued or prosecuted for things done under act laying an excise on wine, &c., to give the act and the special matter in evidence under the general issue,:246-47, 317, 404		STATE HOUSE.	
To recover treble costs if plaintiff or prosecutor becomes nonsuit, suffer discontinuance or verdict pass against him,	247, 317, 404	With land appurtenant vested in trustees for the use of the province,	300
Names of nominees for inspector of elections to be certified to, ...333, 378		Part of said land to be kept as an open green for ever,	301
To summon four freeholders to assist him in selecting inspector, 333, 378		Powers of trustees,	301
To put all names of nominees into a box,	333, 334, 378	STAY OF EXECUTION. See Execution.	
To cause one name to be drawn therefrom by some indifferent person,	333, 378	STRAYS. See Estrays.	
To publish name of person drawn as inspector of election,	333, 378	SUBPOENAS.	
In Philadelphia, names of persons nominated for inspector of elections to be certified to sheriff, 333, 378		To be issued by quarter-sessions into any county,	87
Four names to be drawn therefrom by some indifferent person, ...334, 379		To be issued by common pleas into any county,	93
To administer oath to inspectors of election,	334, 379	SUMMONS.	
If inspector selected does not appear when name is called, to cause another name to be drawn, ...336, 381		Original process against freeholders to be by,	27, 292
To be liable to plaintiff for safe keeping of defendant taken in executions,	340-41, 372	To issue from common pleas,	27
		To be directed to sheriff or coroner, ..	27
		Form of,	27
		Service of,	27, 325, 339, 371
		Return of,	28
		On default of appearance plaintiff to enter common appearance for defendant and take judgment by nathl dict,	28

	Page.		Page.
SUMMONS. —Continued.		TARIFF. —Continued.	
Process in suits before justice of the peace to be by, or <i>capias</i> ,	292	In case of death or removal of collector, provincial treasurer to appoint another until assembly appoints successor,	128
If defendant do not appear, <i>alias</i> , to issue,	292	All aliens over sixteen to pay duty of forty shillings each,	136
If defendant do not appear to <i>alias</i> , justice to hear and decide cause in his absence,	292	Importers of Irish servants or redemptioners to pay duty of twenty shillings each,	136
If no sufficient distress found, arrears of proprietaries' quit-rents to be recovered by,	325	Importers of aliens to make entry thereof under penalty,	136
Proceedings on,	325	Aliens found within province within twelve months after their arrival to be arrested and examined upon oath as to the manner of their importation,	137
Process against freeholder, in suits before justice of the peace to be by, only,	339, 371	If they were shipped for Pennsylvania to be required to take oath of allegiance and abjuration and pay duty,	137
SUPREME COURT. See Court, Supreme.		Masters and merchants of vessels to be examined upon oath concerning such aliens,	138
SWINE. See Estrays.		If it appears that such aliens were landed with intent to evade act, masters and merchants to be bound over to appear at next quarter-sessions,	138
	T.	On conviction masters and merchants to pay duty and forfeit twenty pounds for each alien so landed,	138
TARE.		Forfeiture, how recoverable,	138
To be marked on casks of flour and biscuit for exportation,	4, 250	Application of forfeiture,	138
Penalty for neglect,	4	Charles Read, of Philadelphia, appointed collector,	139
Penalty, how recoverable,	8	Powers of collector,	140
Application of penalty,	8	Duties to be paid to provincial treasurer,	140
Penalty for making wrong tare, ...	250	Ten per cent. commission to be deducted by collector,	140
On suspicion or request of buyer, inspector to unpack cask and try tare,	250	On death or removal of collector, provincial treasurer to appoint another until the assembly appoints a successor,	140
Charges of unpacking and repacking; by whom to be paid,	250	Five pounds to be paid for each convicted felon imported into the province,	164
TARIFF. See Internal Revenue.		One-half of duty to be paid to the governor, the other half to the collector or informer,	164
On negroes imported regulated,	123		
Duty to be paid, or security to be entered before landing negroes, ..	124		
Negroes landed in violation of act to be forfeited,	124		
Powers of collector of,	125		
Coastwise vessels liable to act,	125		
If negroes die or are exported bona fide within six months, three-fourths of duty to be repaid,	126		
Act not to apply to negroes imported by settlers for their own service,	126		
Charles Read of Philadelphia, appointed collector of duty,	127		
Duties of collector,	127		
Fees of collector,	127-28		
Collector to be sworn and give bond, ..	128		

TARIFF.—Continued.

Page.

Importer to give bond to provincial treasurer for the good behavior of such convict,	164
Convict found within province within twelve months after arrival to be arrested and examined under oath as to the time and manner of his importation, &c.,	165
If it appears that he was shipped for Pennsylvania, he shall be compelled to pay duty and give bond,	165-66
Master and merchant of vessel in which convict is imported to be examined under oath touching the importation of such convict, ..	166
If it appears that such convict was illegally landed, master or merchant to be bound over to quarter-sessions,	166
On conviction, to forfeit twenty pounds for each person illegally landed, pay duty and give security, ..	166
Account of all passengers imported to be made to collector of duty, ..	168
Collector to notify mayor of Philadelphia and justices of the counties,	168
Mayor or justices to summon and examine importers concerning such passengers and grant certificate of such as are fit to be landed,	168
Fees for examination and permit, ..	169
Fees of collector of duty for taking bond,	169
Duty to be paid and security given for convicts landed on certificate, ..	169
Penalty for landing convicts or other persons without paying duty, ..	169
Penalty, how recoverable,	169
Application of penalty,	169
Charles Read, of Philadelphia, appointed collector of duty,	170
Importers to make entry without request by collector,	170
Powers and duties of collector,	170
Collector of duty imposed on persons convicted of heinous crimes appointed in place of deceased collector,	320

TARIFF.—Continued.

Page.

New collector to qualify by taking oath or affirmation,	320
If new collector becomes incapable, misbehaves or dies mayor or recorder and aldermen of Philadelphia to appoint another until assembly appoints successor,	321
Successor to qualify by taking oath or affirmation,	321
On persons imported, who have been convicted of felony,	360-61
To be paid by importer,	361
If convict found in province within twelve months after his arrival to be compelled to pay,	363
If convict is landed under permit, to be paid notwithstanding,	366
To be recovered from passenger, ...	366
TAXES, COUNTY. See County Commissioners; County Assessors.	
Elections of commissioners and assessors,	11
Commissioners elected under former acts to continue in office until their terms expire,	11
Three commissioners to be elected in each county,	11
Term of the oldest in office to expire annually,	11
One commissioner to be elected each year,	11
Commissioners to be elected at the general election,	11
Manner of election,	11-12
Ballot for commissioners and assessors to be distinct from that for other officers,	12
Sheriff to make return of election to justices of county,	12
Return to be recorded in sessions minute-book,	12
Other returns to be made as usual, ..	12
Commissioners to qualify by taking oath,	12
Commissioners to qualify before assessors,	12
Form of oath,	12
Oath to be taken before two or more justices of the peace of the county, or of the city of Philadelphia, ...	12

TAXES, COUNTY.—Continued.	Page.
Penalty for refusal to administer oath,	12
Assessors to meet and receive returns,	13
To ascertain taxable persons and estates,	13
To assess all such,	13
Rate of assessment of single men whose estates do not exceed fifty pounds,	14
Assessment of county rates not to exceed three pence per pound or nine shillings per head,	14
Assessors to divide counties into districts,	16
To appoint collector for each district,	16
To make duplicates of assessments,	16
One duplicate to be delivered to commissioners,	16
Other duplicates to be delivered to collector,	16
To make complaint to commissioners of neglect of duty by collectors,	18
Proceedings in refusal to pay assessment,	18
Distress of goods and chattels of offenders,	18
Special warrant to be issued by commissioners,	18
If no distress found, offender to be imprisoned until payment be made,	19
If distress insufficient, imprisonment to be only for residue, with charges,	19
Charges to be settled by commissioners,	19
Delinquent collectors to be reported by treasurer,	19
Delinquents to be fined,	19
Other collectors to be appointed in their stead,	19
Commissioners to issue warrant for seizure of body and estate of delinquent,	19, 20
Return of proceedings on warrant,	20
General meeting of commissioners to be called,	20
Public notice of meeting to be given,	20

TAXES, COUNTY.—Continued.	Page.
If money detained be not paid, commissioners to meet to issue warrant for sale of estates seized,	20
Proceeds of sale to be paid to commissioners,	20
Sums detained or unpaid with damages and charges to be satisfied from proceeds,	20
Surplus to be returned to the owner,	20
Conveyance at such sale to be by sheriff's deed,	20
Title conveyed to be absolute against delinquent his heirs and assigns, and all claiming under him or them,	20
All gifts, grants and sales by delinquent after time money should have been paid declared to be fraudulent and void,	20-21
Freemen not householders and hired servants to be taxed at place of residence,	21
Householders to give account to constable of names, qualifications and estates of those who lodge or dwell in their houses,	21
Penalty for neglect or refusal,	21
If such persons not found at place of residence, householders' or employers' goods to be distrained,	21
Householder or employer to recover tax from lodger or servant,	21
Penalty for neglect of duty by commissioners,	21
Collection of penalty,	22
In case of death, refusal, misbehavior or neglect, other commissioners and assessors to appoint successor,	22
Commissioners to fine treasurer for neglect of duty,	22
Collection of fine,	22
Commissioners to fine assessors for neglect of duty,	22
Disposition of fines,	22
Compensation of commissioners,	23
Compensation of assessors,	23
Compensation of collectors,	23
Compensation of clerks,	23
Commissioners to fine clerks,	23

TAXES, COUNTY.—Continued.	Page.
To appoint successors to clerks, ...	23
In suits or prosecutions for things under this act, defendants may plead the general issue, and give this act and special matter in evidence,	23
In case of nonsuit or discontinuance verdict against plaintiff or prosecutor, defendant to have treble costs,	23
Suits and prosecutions to be barred after twelve months,	24
Proceedings against person charged with neglect of act, not to be stayed by nolle prosequi,	24
Fines and forfeitures not to be released without payment,	24
Commissioners and assessors to choose county treasurer,	24
Treasurers to receive all moneys and effects arising from taxes and penalties,	24
Treasurers to give bond,	24
In case of death or removal of treasurer, commissioners to appoint successor,	24
All treasurers to give security, and keep book of accounts of receipts and disbursements,	24
Accounts of treasurers to be settled yearly,	25
Compensation of treasurer to be settled by commissioners and assessors,	25
On removal treasurers to deliver books, accounts and papers to successor,	25
Penalty for neglect or refusal,	25
In case of death executors or administrators of treasurer to deliver up all such documents, under same penalty,	25
Repeal of all private acts relating to county rates and levies,	25
Assessed within bounds of Lancaster county and not paid, to be paid to treasurer of Chester county,	132
In Lancaster county to be levied to defray expenses of erecting court-house and prison,	133-34

TAXES, COUNTY.—Continued.	Page.
To be levied in Lancaster county to repay a late loan for building court-house and prison,	151-52
To be levied in Lancaster county to sink bills of credit loaned,	208
TAXES, COUNTY, ASSESSMENT OF.	
Commissioners and assessors to meet annually,	13
Place of meeting,	13
To calculate public debts and charges of,	13
To allow all just debts and demands,	13
To adjust and settle the yearly levies,	13
To ascertain sums to be applied to defraying items of public expense,	13
To enforce collection of taxes,	13
Within six days after annual meeting, to issue precepts to constables,	13
Constables to make returns to precepts,	13
Contents of returns,	13
Penalty for failure to make full returns,	14
Fees of constable for executing precept,	14
TAXES, COUNTY, COLLECTION OF.	
Collectors to demand tax assessed, and inform parties of day of appeal,	16
Commissioners to appoint day of appeal,	16
Notice to be left with family, or at place of last abode of collector who cannot meet party,	16
Duplicates to be returned on day of appeal,	16
Contents of return,	16
Parties aggrieved by assessment may appeal to commissioners, ...	16
Commissioners to meet on day of appeal,	17
Assessors to attend and lay constables' returns and assessments before commissioners,	17
Commissioners to examine appellants,	17
May diminish or add to rate,	17

	Page.		Page.
TAXES, COUNTY, &c.—Continued.		TIDE-BANKS.	
May summon and assess persons and estates omitted from assessment,	17	May be erected to drain low grounds and meadows,	37
Penalty for failure to appear where summoned,	17	TOWNSHIP.	
Commissioners to rectify assessments,	17	Each, to elect poundkeeper and erect pound,	116
Parties to have five days notice to appear and make objections,	17	New, to be annexed to election district from which the greater part of it was taken,	277
Clerk of commissioners to deliver to county treasurer a true account of the total charged against each collector,	17	TREBLE COSTS. See Costs.	
Duplicates of rectified assessments to be drawn and delivered to collectors, with warrant to collect sums assessed,	17	TRESPASS.	
Assessment to be collected in money, bills of credit, or merchantable wheat,	18	Act for the recovery of small debts not to extend to actions of, for assault and battery or imprisonment,	296
Delivery of wheat,	18	Action of, for assault and battery or imprisonment, not to be tried before justice of the peace,	344, 375
Miller's receipt for wheat equivalent to payment of tax,	18	TRESPASS ON THE CASE.	
Collectors to render accounts and pay sums collected to county treasurer every six weeks,	18	Act for the recovery of small debts not to extend to actions of, for trover and conversion or slander,	296
Total of duplicates to be paid over within three months after day of appeal,	18	Action of, for trover and conversion or slander not to be tried before justice of the peace,	344, 375
Treasurer to give receipts to collector,	18	TROVER AND CONVERSION.	
Said receipts to be a discharge pro tano,	18	Act for the recovery of small debts not to extend to actions of trespass on the case for,	296
Treasurer to notify commissioners of amounts paid in by collectors. 18		Action for, not to be tried before justice of the peace,	344, 375
TAXES, COUNTY, EXEMPTION FROM.		TRUSTEES OF THE LOAN OFFICE.	
Unsettled tracts of land not to be assessed,	14	Not to be liable for failure to sink and destroy old bills of credit, ..	39
Single men under twenty-one, or not being six months out of servitude or apprenticeship, not to be assessed,	14	Bills of credit not to be sunk or destroyed except as directed by the present act,	39
Proprietary's and governor's estates not liable to assessment,	14	Repeal of parts of preceding laws hereby altered,	39
TAXES, PROVINCIAL.		Bills of credit paid into loan office to be re-emitted upon loans,	40
Act laying an excise on liquors continued for three years,	71	Quotas and sums to be paid to, by provincial and county treasurers and mayor of Philadelphia, as directed by former acts,	40
TENDER.		To give receipts therefor,	40
In bills of credit to be good,	103	Receipts to be sufficient discharges, ..	40

TRUSTEES OF THE LOAN OFFICE.	Page.
—Continued.	
All bills of credit paid in before January 16, 1731, to be re-emitted,	40
To loan out bills of credit on security of real estate,	40-1
Limitation of loans,	41
Nature of security,	41
To take mortgage deeds of lands,	41
Effect of mortgage deeds,	41
Effect of words "grant, bargain, and sell," in mortgage deeds,	41
Bond and warrant of attorney to be given by mortgagor,	42
Oath or affirmation of mortgagor to be endorsed on mortgage deed, ..	42
To administer oath or affirmation, ..	42
Mortgage deeds to be recorded,	42
When recorded, to be evidence of mortgage,	42
Receipt for each payment of mortgage money to be endorsed on deed,	43
On full payment mortgage to be released and delivered,	43
Time of release to be entered on margin of record,	43
Fee for entering discharge,	43
Attested copy of record of satisfaction to be equivalent to re-conveyance,	43
Mortgagor to hold mortgaged premises until default,	43
Remedies of, in case of default,	43
To issue ten thousand pounds in new bills of credit,	44
To cause bills and counterparts to be printed,	44
Costs of printing to be at charge of province,	44
Denomination of bills,	44
Bills to be as valid as currency as former bills,	45
To deliver bills in quantities of one thousand pounds to signers, ..	45
Signers to sign and number bills and counterparts and re-deliver same to,	46
Compensation of signers to be paid by,	47
Style of,	47

TRUSTEES OF THE LOAN OFFICE.	Page.
—Continued.	
Powers of,	47
To give bond to provincial treasurer,	47-8
Penalty of bond,	48
To take oath or affirmation before a justice of the peace,	48
Contents of oath,	48
Salary of,	48
Payment of salary,	48
Attendance at office required,	48
To deliver new bills of credit in exchange for torn or defaced ones, ..	48
Torn and defaced bills to be produced as vouchers before auditors of, accounts,	49
Torn and defaced bills to be destroyed,	49
Accounts of, to be audited yearly by committee of assembly,	49
Disposition of funds in hands of, ..	49
All bills of credit paid in after January 16, 1731, to be sunk and destroyed after comparing them with counterparts,	49
Clerk to submit lists of securities held by, to auditing committee, ..	49
Account of destroyed bills to be kept,	49-50
Charles Brockden appointed clerk of, ..	50
Duties of clerk,	50
To appoint successor, in case of death or removal of clerk,	50
Appointed to hold office till assembly appoints another in his stead, ...	50
Fees of clerk,	50
Clerk to give bond to provincial treasurer,	50
Penalty of bond,	50
Clerk to take oath or affirmation before justice of the peace,	50
Contents of oath,	50
To be discharged from all obligations under act on accounting for and destroying all bills of credit received by them,	51
To cause bills of credit to be printed,	99
To attend at press during printing of bills,	99

Page.	Page.
TRUSTEES OF THE LOAN OFFICE.	TRUSTEES OF THE LOAN OFFICE.
—Continued.	—Continued.
To receive and take charge of all printing paraphernalia while press is not working, 100	To give receipt for evidences of mortgagor's title left with them, 106
Appointed, 101	To record mortgages at charge of mortgagors, 106
On death or removal of assembly to appoint successor, 101	To provide books of record at their own expense, 107
Successor to have all powers of original, 101	To appoint clerk, 107
Style of, 101	Fees of clerk, 107
Powers of, 101-2	Clerk to prepare bond and warrant to accompany mortgage, 107
To attend at office on Tuesday and Wednesday of each week during continuance of act, 102	Clerk to take oath or affirmation before entering upon duties of office, 108
Salary of, 102	One-sixteenth of sums loaned on mortgage to be repaid annually with interest, 108
To take oath or give bond before entering on duties of office, 102	Payments to be endorsed on mortgage deed and counterpart, 108
To take oath or affirmation before a justice of the peace, 102	Fee for endorsing payments, 109
Form of oath, 103	On last payment mortgage to be discharged, 109
To receive bills of credit from signers, 103	Entry of discharge to be made on margin of record, 109
To keep account of all bills received and loaned, 103	Attested copy of entry to be equivalent to recovery, 109
Accounts to be open to auditing committee of assembly, 103	On default of payment of principal or interest, to foreclose at law or enter and sell mortgaged premises, 109-10
To loan bills of credit on real estate security at five per cent., .. 103	Sale to bar equity of redemption, .. 110
Empowered to search and copy records to discover encumbrances, 104	Reversal of judgment not to affect title of purchaser, 110
To ascertain clear value of titles to lands, 104	Sale under act not to vest any greater estate in purchaser than authorized by mortgage, 110
Not to loan thereon over half the value of land or one-third the value of houses, 104	May loan bills of credit on security of plate, 110
To see that borrower has indefeasible estate in fee simple in the real estate proposed as security, 104-5	May sell plate on default, 110
To see that it is free from all incumbrances except rents, 105	Accounts of, to be audited and bills of credit received destroyed at least yearly, 111
Not to loan more than one-third the value of land encumbered by rents, 105	When all bills issued under act destroyed, to be discharged, 111
Borrower to take oath that he owns land in his own right, and that the same is clear of any incumbrance except rents, 105	To sink principal sums paid in before due, as provided in other cases, 112
Mortgages to be taken as security for sums lent, 105	Forged or counterfeited bills received to be handed over to, 113
Effect of mortgage, 105	To so arrange mortgage-deeds that the annual quotas shall be payable on October 15, 114
Effect of words "grant, bargain and sell" in mortgage, 106	

Page.	Page.
TRUSTEES OF THE LOAN OFFICE.	TRUSTEES OF THE LOAN OFFICE.
—Continued.	—Continued.
To receive and take charge of all printing paraphernalia while press is not working, 100	To give receipt for evidences of mortgagor's title left with them, 106
Appointed, 101	To record mortgages at charge of mortgagors, 106
On death or removal of assembly to appoint successor, 101	To provide books of record at their own expense, 107
Successor to have all powers of original, 101	To appoint clerk, 107
Style of, 101	Fees of clerk, 107
Powers of, 101-2	Clerk to prepare bond and warrant to accompany mortgage, 107
To attend at office on Tuesday and Wednesday of each week during continuance of act, 102	Clerk to take oath or affirmation before entering upon duties of office, 108
Salary of, 102	One-sixteenth of sums loaned on mortgage to be repaid annually with interest, 108
To take oath or give bond before entering on duties of office, 102	Payments to be endorsed on mortgage deed and counterpart, 108
To take oath or affirmation before a justice of the peace, 102	Fee for endorsing payments, 109
Form of oath, 103	On last payment mortgage to be discharged, 109
To receive bills of credit from signers, 103	Entry of discharge to be made on margin of record, 109
To keep account of all bills received and loaned, 103	Attested copy of entry to be equivalent to recovery, 109
Accounts to be open to auditing committee of assembly, 103	On default of payment of principal or interest, to foreclose at law or enter and sell mortgaged premises, 109-10
To loan bills of credit on real estate security at five per cent., .. 103	Sale to bar equity of redemption, .. 110
Empowered to search and copy records to discover encumbrances, 104	Reversal of judgment not to affect title of purchaser, 110
To ascertain clear value of titles to lands, 104	Sale under act not to vest any greater estate in purchaser than authorized by mortgage, 110
Not to loan thereon over half the value of land or one-third the value of houses, 104	May loan bills of credit on security of plate, 110
To see that borrower has indefeasible estate in fee simple in the real estate proposed as security, 104-5	May sell plate on default, 110
To see that it is free from all incumbrances except rents, 105	Accounts of, to be audited and bills of credit received destroyed at least yearly, 111
Not to loan more than one-third the value of land encumbered by rents, 105	When all bills issued under act destroyed, to be discharged, 111
Borrower to take oath that he owns land in his own right, and that the same is clear of any incumbrance except rents, 105	To sink principal sums paid in before due, as provided in other cases, 112
Mortgages to be taken as security for sums lent, 105	Forged or counterfeited bills received to be handed over to, 113
Effect of mortgage, 105	To so arrange mortgage-deeds that the annual quotas shall be payable on October 15, 114
Effect of words "grant, bargain and sell" in mortgage, 106	

Page.

TRUSTEES OF THE LOAN OFFICE.

—Continued.

One thousand pounds of the present issue to be delivered to the provincial treasurer,	114
His receipt to be a sufficient discharge for the same,	114
One thousand pounds of the present issue to be delivered to the mayor and commonalty of Philadelphia,	115
Two thousand pounds of the present issue to be delivered to the persons appointed to build a house for the meeting of the assembly, ..	115
Their receipt to be a sufficient discharge therefor,	115
To deliver three hundred pounds in bills of credit to John Wright of Lancaster county for building the court-house and prison therein, ..	151
Said loan to be sunk by a tax levied upon the inhabitants of the county,	151-52
Receipt of John Wright therefor to be a good discharge to the,	152
Sixty pounds in bills of credit to be loaned to Samuel Hollingsworth, treasurer of Chester county,	152
Former, removed and new trustees appointed,	191, 305
New, to give bond to provincial treasurer,	191
To receive mortgages, bonds and warrants and books of records, &c., from former trustees,	192
All such documents, remaining bills of credit, &c., to be delivered to the new, within two weeks after the publication of the act,	192
Receipt of new, to discharge former ones,	192-93
Former, to have recourse to books, to enable them to settle their accounts,	193
New, to choose a clerk,	193
To keep books of account,	193
Salaries of new, to be the same as those of former ones,	194
To re-emit upon mortgage bills of credit paid in before October 15, 1737,	198
Manner of re-emission,	199

	Page.
TRUSTEES OF THE LOAN OFFICE.	
—Continued.	
Mortgages to be recorded,	200
Payments to be endorsed thereon, ..	200
Fees of, to be the same as pre- scribed by prior act,	200
Mortgagors to hold premises until default,	200
Style of,	201
Powers and duties of, to be same as directed by prior act,	201
Prior act to continue in force ex- cept so far as altered or repealed, ..	201
To give bond and take oath before entering upon the duties of their office,	201
To receive additional salary,	202
To attend at loan office at specified times,	202
To issue forty thousand pounds in new bills of credit,	202
To exchange new bills for torn or ragged ones,	203
To produce torn and ragged bills as vouchers before auditing com- mittee,	203
Fees of trustees for exchanging bills, ..	203
To account to auditing committee of assembly once a year,	204
To deliver bills to signers and re- ceive them when signed,	205-6
When all bills issued are sunk or destroyed, to be discharged from all liability therefor,	206
New, appointed,	207
To give bond and take oath,	207
Duties and compensation,	207
To so devise mortgage deeds that annual quotas and payments shall be due on October 15 annually, ..	208
To render account of days and times of receipt of sums paid in,	208
Empowered to take and receive the real estate of William Fishbourn as security for his debt to the province,	227
Required to pay the wages of the as- semblymen on order of the house out of the interest moneys received by them,	233-34
Authorized to release mortgage given by William Fishbourn in payment of the same,	262

	Page.
TRUSTEES OF THE LOAN OFFICE.	
—Continued.	
New, to give bond and take oath, ..	306
Successors to be appointed in case of death or removal of new, as directed by former act,	306
All mortgages, records, &c., to be delivered by former, to their successors,	306-7
Receipt of successors to discharge former,	307
Former, to be permitted to inspect mortgages, &c., in order to settle their accounts with the assembly, ..	307
New, to choose a clerk,	307
To keep fair books of accounts,	307
Auditing committee of assembly to have access to accounts, records, &c.,	308
Duplicate of accounts to be delivered to committee,	308
New, to receive same salaries as their predecessors,	308
To prepare bills of credit of the value of eighty thousand pounds, ..	345
Form of bills,	346
Denomination of bills,	346
To see that bills are properly prepared,	346
To deliver bills to signers, and receipt to signers on re-delivery, ..	347
To pay fee of signers,	347
To give out new bills in exchange for old,	348
Old bills to be kept as vouchers, ..	348
After examination, old bills to be destroyed by auditing committee of assembly,	348
Fees of, for exchanging bills of credit,	348
Empowered to take, hold, enjoy and dispose of property mortgaged to secure loans of bills of credit,	349
On death or removal of, assembly to appoint successor,	349
Successors to have powers of original,	349
Term of office of, limited to four years,	349
Not to be discharged, until all securities and records of loan office are delivered to successor,	350

	Page.
TRUSTEES OF THE LOAN OFFICE.	
—Continued.	
To give bond before entering upon office, and take oath,	350
Form of oath,	350
To loan certain survivor bills of credit, upon mortgage,	350
To examine title to land offered as security, before making loan,	351
Mortgage to be taken in the name of the, of the province of Pennsylvania,	351
Interest to be at the rate of five per cent.,	351
To permit mortgages to be renewed, if security sufficient,	351
Mortgage may be paid off at any time before sale of premises mortgaged,	352
To re-emit all sums paid into them in bills of credit before October 15, 1749,	352
To attend at office every Tuesday and Wednesday until bills are loaned,	352
To attend thereafter every second Tuesday in April, June, August, October, December and February, to perform duties,	353
Mortgages given to, to be recorded, ..	353
Attested copy of record to be evidence of mortgage,	353
Mortgage to be indorsed with oath of mortgagor that he is seized of premises in his own right and that they are free from incumbrances, ..	353
To administer oath,	353
Mortgage deeds, duly executed and acknowledged to vest title in,	353
Effect of words "grant, bargain and sell" in mortgage deeds,	353
Bond in double the value of the loan to be given with each mortgage, ..	354
Warrant of attorney to confess judgment to be also given,	354
Release of errors to be inserted in warrant,	354
Mortgagors to enjoy mortgaged premises until default,	354
Within two months after default in payment of principal or interest, to enter upon mortgaged premises and sell same,	354

	Page.
TRUSTEES OF THE LOAN OFFICE.	
—Continued.	
Sale to foreclose right of redemption,	354-55
Surplus to be paid to mortgagor, ..	354
Authorized to loan bills of credit in security of plate,	355
In case of non-payment to sell plate, ..	355
If any part of mortgage money has been paid, actual sum due to be indorsed on writ of execution, ...	355
Sheriff only to sell so much of premises as he shall judge sufficient to pay the debt,	355
Sale to vest whole title in purchaser free of claim,	355
Receipts of yearly payments to be endorsed on mortgage,	355-56
Fee for making receipt,	356
On last payment time of discharge of mortgage to be entered on margin of record,	356
Fee for entry,	356
Trustee to keep accounts of sums received and loaned,	356
Salary of,	356
Salary to be paid in bills of credit, ..	356
Accounts of, to be audited yearly by committee of assembly,	356
Bills of credit in hands of, after October 15, 1749, to be sunk and destroyed by auditing committee,	356-57
To keep mortgagors punctual in their payments,	357
Not to be allowed credit for sums due for twelve months and unpaid unless proceedings are pending to collect them,	357
To appoint clerk,	357
To be answerable for his behavior, ..	357
Clerk to prepare papers for him, ..	357
Fee therefor,	357
Clerk to keep account of borrowers, ..	357
To record mortgages,	357
To deliver list of borrowers to auditing committee,	357
To take oath for the due performance of the duties of his office, ..	358
To pay reward to informer of counterfeit or forger of bills of credit,	358

	Page.
TRUSTEES OF THE LOAN OFFICE.	
—Continued.	
To pay reward to informer of raiser of bills of credit,	358
To receive counterfeit, forged or raised bills and destroy them in the presence of a committee of assembly,	359
New, appointed,	408
Powers and duties of,	408
New, to give bond and take oath, ..	408
If, die or are removed assembly to appoint successors,	409
Term of office limited to four years, ..	409
New, to demand and receive of predecessors all records, &c., belonging to the loan office,	409
All records, documents, &c., to be delivered by old, to their successors whose receipt shall be sufficient discharge,	409-10
Former, to have access to records, &c., to enable them to account with assembly,	410
To appoint clerk,	410
To be answerable for his behavior, ..	410
To keep books of account,	410
Auditing committee of assembly to have access to accounts, bonds, documents, &c.,	410-11
Salaries of,	411
To prepare and issue ten thousand pounds in bills of credit,	411
Form and denomination of bills, ...	412
To deliver bills to signers,	413
Signers to keep account of bills delivered and re-delivered,	413
To exchange new bills for torn, ragged and defaced ones,	414
Old bills received in exchange to be kept as vouchers,	414
Fees of, for exchanging bills,	414

TRUSTEES OF THE PROVINCE ISLAND.

Island confirms to them and their successors in trust,	383
To have care and management thereof and receive rents, issues and profits,	384
To grant leases of the island for any term less than seven years,	384

	Page.		Page.
TRUSTEES OF THE PROVINCE ISLAND.—Continued.		UNDER-SHERIFF.—Continued.	
To account to provincial treasurer for sums received on account of the island,	385	Election of, within three years of former term of three years null and void,	214
Delinquents to be proceeded against by treasurer by action of debt, ..	385	Penalty for exercising office of, contrary to act,	214
Suits for arrears of rent of island, &c., to be brought in name of trustees,	385	Penalty, how recoverable,	214
Trustees to be liable for costs,	385	Application of penalty,	214
To provide places for sick persons sent to the island,	386	Act of governor or lieutenant-governor not to prevent recovery of penalty,	214
To apply to justices of the peace for order on master, importer or owner of sick person to provide food and necessaries,	386	UTTERING.	
To keep record of sick persons sent to the island with names of vessel, master or merchant importing them,	387	Punishment for, forged, counter-felted or raised bills of credit, 45, 112-13, 204-5, 358	
To grant certificate of discharge to person recovered,	387	Offender unable to pay fine to be sold into servitude for seven years,	113
TRUSTEES OF THE STATE HOUSE.		V.	
Appointed,	300	VAGABONDS. See Paupers; Vagrants.	
Powers of,	301	VAGRANTS. See Paupers.	
To be indemnified from all expenses on account of suit or conveyances prosecuted or made by them,	301	Imported, to be examined as to the likelihood of their becoming a public charge,	139, 167
U.		Found likely to become a public charge, masters, owners or importers of such, to be proceeded against,	139
UNDER-SHERIFF.		Order of justices may be traversed by person aggrieved on giving recognizance,	139
Not to practice extortion upon prisoners or persons arrested, ...	179	Found likely to become a public charge, owner or importer to give security to indemnify province, ..	167
To permit prisoner to send for food and drink, &c.,	180	VENDITIONI EXPONAS.	
Punishment for violation,	181-82	Execution in transcript of judgment of justices of the peace to be levied by,	341, 372
Orders therein to be enforced by attachment,	182	VENDUE. See Auctions.	
Not to keep tavern or public house, ..	182	VENDUE-MASTER. See Auction; Auctioneer.	
Not to sell liquors to prisoners above amount allowed by law,	182	VENIRE.	
Penalty for violation,	182	Of offenders against act to prevent the erecting of weirs, dams, &c., in the river Schuylkill, where to be laid,	265
No one who has been, for three years to be chosen sheriff within the next three years,	183		
Penalty for violation,	183		
Person elected as alternate to sheriff not to serve as, during term of sheriff's commission,	214		

	Page.
V.	
WAGER OF LAW.	
Not allowed, 8, 34, 53, 77, 125, 130, 142, 154, 169, 255, 366	
WAGES. See Salary.	
WAREHOUSE.	
For storage of hemp to be kept at public charge,	30
WARRANT OF ATTORNEY.	
Must be filed,	95
Penalty for neglect,	95
To be given with mortgage to trustees of the loan office,	354
WASTAGE.	
Of liquors, allowance for, 242, 312, 398	
WATER-BAILIFF.	
To assist collector of duty on negroes,	54, 125
Penalty for neglect or refusal, 54, 125	
WEIGHTS AND MEASURES.	
Of millers, bakers and bolters to be examined and stamped every three years,	255
WEIRS.	
Previously erected and obstructing navigation in the river Schuylkill to be removed,	194
Subsequently erected to be viewed by two justices of the peace on complaint,	195
If, be found to obstruct navigation, justices to issue warrant against person suspected of erecting them, 195	
Penalty on conviction thereof, ...	195
Penalty, how recoverable,	195
If no distress be found, offender to be imprisoned for twenty days, ..	195
Appeal to lie to quarter-sessions from judgment of justices,	195
Execution to be stayed until appeal is determined,	195
Justices of the peace to issue warrant to surveyor of highways to summon inhabitants of nearest township to remove,	196, 265
Penalty for refusal to obey summons,	196, 265

WEIRS.—Continued.

	Page.
Application of penalty,	196, 265
Persons erecting or maintaining or assisting to erect or maintain, racks, &c., in the river Schuylkill to be bound over to quarter-sessions,	264
Penalty for each offense,	264
Application of penalty,	264
Erected in the river Schuylkill to be destroyed by any one,	264
Penalty for assaulting or obstructing person destroying,	264
Application of penalty,	264
Offenses against act to be laid and prosecuted in either Philadelphia, Chester or Lancaster county, 265	

WHEAT.

Merchantable, or miller's receipt for, recoverable for county taxes, ..	18
Delivery of,	78
To be screened before grinding, ..	254
Unsound or unmerchantable wheat not to be ground,	254-55
Penalty for grinding unscreened or unmerchantable wheat,	255
Penalty, how recoverable,	255

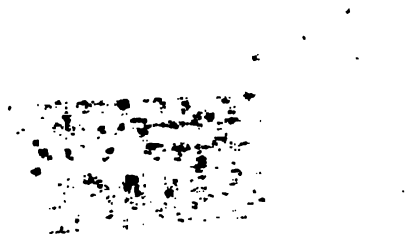
WHEAT FLOUR. See Bolters; Flour.

WHIPPING.

Punishment for trading with slaves without license, by free negro or mulatto,	62
Punishment for negro found drinking in place where liquors are sold, 63	
Punishment for negro found out of doors after nine o'clock,	63
Punishment for negro found ten miles from home without leave in writing,	63
Punishment for forging or counterfeiting bills of credit, being accessory thereto or uttering forged or counterfeited bills,	113
Part punishment for setting on fire of woods, marshes, &c., by servants, negroes or slaves without direction of masters unless masters will pay damages and costs, 282	
Punishment for raising bills of credit,	358

	Page.		Page.
WINE. See Liquors.		WOODS.—Continued.	
WINE MEASURE.		Punishment for servants, negroes or slaves setting fire to, without direction of master unless master pay damages and costs,	282
Contents of casks to be gauged by, 73		WORKHOUSES.	
WOLVES.		In Philadelphia, profits of ferry from Philadelphia to Gloucester to be applied to uses of,	84
Bounty for killing,15, 121		One-half of fines and forfeitures accruing under act to be applied to uses of,	84
Head to be produced before justice of the peace, 15		One-half of penalty for erecting or maintaining dams in the river Schuylkill to be for the use of the, 264	
Justice to examine claimant, 15		One-half of penalty for assaulting or obstructing persons destroying weirs, dams, &c., to be for the use of the,	264
If satisfied to issue order on county treasurer for bounty, 15		Commitment to, punishment for certain offenses,282, 315	
If produced by Indian, head to be accompanied by proof that it was seen when green, 15		Commitment to, for one month punishment for receiving or harboring sick person ordered to be sent to Province Island, in case of inability of offender to pay fine, .. 388	
Treasurers to keep accounts of bounties, 16		Commitment to, for five months punishment for retailing liquors without license,	401
Commissioners and assessors to allow accounts, 16		WRIT OF ARREST. See Arrest.	
Commissioners to keep accounts, 16		WRITS. See Arrest; Attachment; Distress; Courts; Execution; Error; Summons.	
WOODS.			
Person setting, on fire to pay all damages occasioned thereby, 281			
Damages, how recoverable, 281			
Damages to, claimed not exceeding forty shillings, suit to be heard before before justice of the peace, 281			
Justice of the peace to grant inquest to determine damages and issue execution on certificate of inquest as in case of debts under forty shillings, 281			
No costs of suit to be recovered if jury do not assess over forty shillings damages, 282			







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